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1880
of
the

NEW JERSEY

Court of Errors and Appeals

THE CITY OF TRENTON,

Respondent,

vs.

TRENTON MASONIC TEMPLE ASSO-
CIATION,

Appellant.

} On Appeal
from the
Supreme Court.

NEW JERSEY SUPREME COURT.

WRIT OF CERTIORARI

(Filed May 28, 1930)

NEW JERSEY, SS.

THE STATE OF NEW JERSEY TO THE STATE BOARD OF 10
TAXES AND ASSESSMENT OF THE STATE OF NEW
JERSEY:

We being willing for certain reasons
to be certified of a certain decision ren-
[SEAL] dered on the 8th day of April, 1930, by
the State Board of Taxes and Assess-
ment in relation to the appeal to said
Board by the City of Trenton, a taxing district of
this State, in relation to an assessment levied by
the Board of Commissioners of Assessment of 20
Taxes of the said City of Trenton on lands and
buildings of the Trenton Masonic Temple Associa-
tion at the southeast corner of Front and Willow
Streets in the City of Trenton aforesaid, do com-
mand you that you certify and send under your
seal, to our Justices of our Supreme Court of Judi-
cature, at Trenton, on the 28th day of May, 1930,

the said decision of your board above mentioned together with all things touching and concerning the same as fully and completely as they remain before you, together with this our writ, that we may cause to be done thereupon what of right and justice and according to the laws of the State of New Jersey, ought to be done.

Witness, William S. Gummere, Esq., Chief Justice of our Supreme Court, at Trenton, this 8th day
10 of May in the year of our Lord one thousand nine hundred and thirty.

FRED L. BLOODGOOD,
Clerk.

WILLIAM ABBOTTS, JR.,
Attorney for Prosecutor.

I allow this writ. Let it be sealed.

THOMAS W. TRENCHARD, *J. S. C.*

20

NEW JERSEY SUPREME COURT.

THE CITY OF TRENTON,

Defendant,

vs.

TRENTON MASONIC TEMPLE ASSO-
CIATION, ET ALS.,

Prosecutor.

} On Certiorari.

RETURN

30

(*Filed May 28, 1930*)

The State Board of Taxes and Assessment doth herewith send to the Supreme Court of the State of New Jersey the petition, judgment and proceedings in the matter of the appeal of City of Trenton from the action of the Mercer County Board of Taxation in cancelling the assessment on property of Trenton Masonic Temple Association, situate in the City of Trenton, county of Mercer, for the year 1929, as within it is commanded, as by the transcript under

the seal of said board hereto annexed more fully appears.

STATE BOARD OF TAXES AND ASSESSMENT.
[SEAL] By CHARLES E. COOK,
Secretary.

STATE BOARD OF TAXES AND ASSESSMENT.

In the matter of the application of the City of
Trenton, on appeal from the action of the Mer- 10
cer County Board of Taxation in cancelling
the tax assessment levied for the year 1929 on
property of Trenton Masonic Temple Associa-
tion, situate in the City of Trenton, county of
Mercer and State of New Jersey.

PETITION OF APPEAL

(Filed September 26, 1929)

To the State Board of Taxes and Assessment: 20

Your petitioner, the City of Trenton, a taxing dis-
trict, in the county of Mercer and State of New
Jersey, respectfully shows that Trenton Masonic
Temple Association is the owner of certain prop-
erty situate in the taxing district of Trenton,
county of Mercer, consisting of land and building,
known as lots Nos. 49, 67, 52R, 127R, 50R, 51R,
54R, 64R, 90R, 63R and 141, on page 16 of the City
Atlas of said City of Trenton, at the southeast cor- 30
ner of Front and Willow Streets, in said taxing
district, and commonly known as* Trenton Masonic
Temple.

That said property was assessed for the purpose
of taxation for the year 1929 by the City of Trenton
at a valuation of ** Land, \$38,750.00; Improve-

* Where city property is the subject of appeal, care should be taken to describe the lot, block and street number, so that the same may correspond with the tax collector's books.

** This amount should be the original valuation of the property, as it appears on the tax bill.

ment, \$410,000.00; Personal, \$; Total, \$448,750.00.

That an appeal from said assessment was filed with the Mercer County Board of Taxation by the said Trenton Masonic Temple Association, which appeal said Board disposed of as follows: By cancelling the whole of said assessment, on the ground that such property is not taxable under the law of this State, at which action your petitioner is ag-
 10 grievied, because such property is taxable under the law of this State, and the cancellation of said assessment was and is illegal.

Your petitioner therefore prays that the said assessment of*** Land, \$38,750.00; Impt., \$410,000.00; Pers., \$; Total, \$448,750.00, for the year 1929, be fixed at the true value of the property, to-wit: Land, \$38,750.00; Impt., \$410,000.00; Pers., \$; Total, \$448,750.00, and that the
 20 judgment of the said Mercer County Board of Taxation be reversed and set aside.

Dated September 20, 1929.

CITY OF TRENTON.

(Signed) By CHAS. E. BIRD,
City Counsel.

STATE OF NEW JERSEY, }
 COUNTY OF MERCER }ss.

Charles E. Bird, counsel for the above-named petitioner, being duly sworn according to law, on his
 30 oath says that he has read the above petition and knows the contents thereof, and that the factual statements set forth and contained therein are true.

CHAS. E. BIRD.

Sworn and subscribed before me this 20th day of September, 1929.

CHARLES J. MILLER,
Notary Public of N. J.

***This amount should be the valuation to which the assessment was changed by the County Board of Taxation, on appeal.

using the building are organized exclusively for the moral and mental improvement of men, women and children.

10 Lots 49, 67, 52R, 127R, 50R, 51R, 54R, 64R, 90R, 63R and 141, on Page 16 of the City Atlas of Trenton with the buildings thereon erected, were assessed, by the Assessors of the City of Trenton, in the name of Trenton Masonic Temple Association, for the year 1929, at a valuation of \$448,750. The land consists of a tract of about 31,250 square feet in area, upon which is erected a Masonic Temple Building. The land is necessary for the fair enjoyment of the building and is devoted to the uses of the building hereinafter set forth, and no other purposes.

20 The Trenton Masonic Temple Association appealed the assessment to the Mercer County Board of Taxation on the ground that the said land and building were exempt from taxation by the laws of the State of New Jersey, and the Mercer County Board of Taxation, after hearing evidence produced on the part of the complainant, Trenton Masonic Temple Association, and the argument of counsel, and the Board of Assessors for the City of Trenton, on June 17, 1929, ordered the assessment cancelled.

30 The Trenton Masonic Temple Association, which is the owner of the land and building, is operating under a certificate of incorporation, of which the following is a copy:

CERTIFICATE OF INCORPORATION

OF

TRENTON MASONIC TEMPLE ASSOCIATION

The Masonic Bodies of Trenton, New Jersey, namely: Trenton Lodge, No. 5, F. and A. M., Mercer Lodge, No. 50, Ancient Free and Accepted Masons, Ashlar Lodge, No. 76, Ancient Free and Accepted Masons, Column Lodge, No. 120, F. and

A. M., Fraternal Lodge, No. 139, F. and A. M., Loyal Lodge, No. 181, F. and A. M., True Craftsman Lodge, No. 202, F. and A. M., Three-Times-Three Chapter, No. 5, Royal Arch Masons, and Palestine Commandery, No. 4, Knights Templar, realizing the necessity of the fraternity for suitable accommodations in Trenton, New Jersey, hereby associate themselves into a corporation, under and by virtue of the provisions of the act of the Legislature of the State of New Jersey entitled "An act to incorporate associations not for pecuniary profit," approved April 21, 1898, and the several supplements thereto and amendments thereof, and for that purpose certify as follows: 10

1. The name of this corporation is TRENTON MASONIC TEMPLE ASSOCIATION.

2. The purposes for which this corporation is formed are to acquire all the assets and assume all the liabilities of Trenton Masonic Temple Association, a corporation of New Jersey organized on April 26, 1917, under and by virtue of the provisions of the act of the Legislature of the State of New Jersey entitled "An act concerning corporations" (Revision of 1896) and the several supplements thereto and acts amendatory thereof; to purchase a site and erect, maintain and operate a Masonic Temple in the City of Trenton, New Jersey, for the use and accommodation of the several Masonic bodies hereinafter mentioned and any other Masonic body hereinafter admitted, as well as the members thereof, for fraternal and charitable purposes; to take and hold, without limit as to amount, by lease, gift, purchase, grant, devise or bequest, any property, real or personal, within or without the State of New Jersey and to sell, convey, mortgage or otherwise dispose of the same; to borrow money; to make and issue promissory notes, bills of exchange, bonds, debenture, obligations and evidences of indebtedness and to secure the same by 20 30

mortgage, pledge or otherwise; to do all and everything necessary, suitable, convenient, or proper for the accomplishment of any of said purposes or incidental thereto; and to have and exercise all the powers conferred by the statutes of New Jersey upon corporations organized under the act first hereinabove referred to.

3. The location of the principal office of the association in this State is at 143 East State Street,
10 Trenton, New Jersey, and the name of the statutory agent therein and in charge thereof, upon whom process against this association may be served is John V. B. Wicoff.

4. The number of trustees of the association shall be nine. The names of the first trustees and their post office addresses are:

A. K. Leuckel, Trenton, New Jersey.
Charles H. Crozier, Trenton, New Jersey.
Thomas E. Raub, Trenton, New Jersey.
20 W. J. B. Stokes, Trenton, New Jersey.
S. E. Kaufman, Trenton, New Jersey.
John S. Broughton, Trenton, New Jersey.
Albert S. Rogowski, Trenton, New Jersey.
Frank L. Biles, Trenton, New Jersey.
Adam Exton, Trenton, New Jersey.

They shall hold office until the first annual meeting of the association and until their successors are elected. The trustees hereafter elected shall hold office for one year and until their successors are
20 elected by the association as hereinafter provided.

5. The members of the association are:

Trenton Lodge, No. 5, F. and A. M.
Mercer Lodge, No. 50, Ancient Free and Accepted Masons.

Ashlar Lodge, No. 76, Ancient Free and Accepted Masons.

Column Lodge, No. 120, F. and A. M.
Fraternal Lodge, No. 139, F. and A. M.
Loyal Lodge, No. 181, F. and A. M.

True Craftsman Lodge, No. 202, F. and A. M.
Three-Times-Three Chapter, No. 5, Royal Arch
Masons, and

Palestine Commandery, No. 4, Knights Templar.

6. The annual meeting of the association shall be held on the last Thursday of April in each year. Prior to each annual meeting of the association, each member of the association shall elect one of its own members to represent it at such annual meeting, and each member of the association may instruct its representative so elected for whom he shall vote as the choice of his lodge. At the annual meeting the representative so elected shall elect one member from each of the said Masonic bodies as trustees of the association. The trustees shall elect officers of the association. In case the association shall be dissolved, or its charter forfeited, or its existence in any manner terminated, title to all property, real or personal, shall upon such termination immediately vest in the Masonic bodies above named, share and share alike, as tenants in common, unless otherwise hereinafter provided by a lawful amendment to these articles of incorporation.

In witness whereof the said Masonic bodies have caused these presents to be signed by their duly authorized officers and their corporate seals to be affixed the fourth day of November, A. D. 1921.

TRENTON LODGE, No. 5, F. AND A. M.

By JOHN DUNCAN,
Worshipful Master. 30

[SEAL]

Attest: ROBERT MAYERS,
Secretary.

MERCER LODGE, No. 50, ANCIENT
FREE AND ACCEPTED MASONS.

[SEAL]

By WALTER B. SCHENCK,
Worshipful Master.

Attest: JOHN M. WRIGHT,
Secretary.

10

Stipulation of Facts

ASHLAR LODGE, No. 76, ANCIENT
FREE AND ACCEPTED MASONS.

[SEAL]

By FRED C. BEANS,
Worshipful Master.

Attest: EDGAR C. COLEMAN,
COLUMN LODGE, No. 120, F. AND A. M.
Secretary.

[SEAL]

By LEWIS S. STACKHOUSE,
Worshipful Master.

10

Attest: B. F. HAVENS,
Secretary.

FRATERNAL LODGE, No. 139, F. AND
A. M.

[SEAL]

By GEO. BUCHANAN,
Worshipful Master.

Attest: WM. KURTZ,
Secretary.

LOYAL LODGE, No. 181, F. AND A. M.

[SEAL]

By LEROY W. FARLEY,
Worshipful Master.

20

Attest: DAVID H. LUKENS,
Secretary.

TRUE CRAFTSMAN LODGE, No. 202, F.
AND A. M.

[SEAL]

By MICHAEL COMMINI,
Worshipful Master.

Attest: ALBERT S. ROGOWSKI,
Secretary.

THREE-TIMES-THREE CHAPTER, No.
5, ROYAL ARCH MASONS.

[SEAL]

By WILLIAM H. BUTLER,
High Priest.

30

Attest: JOHN D. HOWELL,
Secretary.

PALESTINE COMMANDERY, No. 4,
KNIGHTS TEMPLAR.

[SEAL]

By MARCUS S. FARR,
Commander.

Attest: JOHN F. L. THOMPSON,
Secretary.

(Then follows proofs, in the usual statutory form.)

The purchase of the land and the erection of the building was financed by the individual members of the fraternity donating various sums for their respective lives and receiving in return a mortuary bond by virtue of which the Masonic Temple Association agrees to pay the principal amount contributed upon the death of the contributor, provided that at such time there is sufficient money in the Mortuary Fund to pay the same. The following is a sample copy of one of the bonds actually issued, the other bonds being issued to other contributors and in the sum of other contributions: 10

UNITED STATES OF AMERICA
STATE OF NEW JERSEY

No. 1306 \$200.

TRENTON MASONIC TEMPLE ASSOCIATION 20
MORTUARY BOND

For value received, Trenton Masonic Temple Association, a corporation of the State of New Jersey organized under an act entitled "An act to incorporate associations not for pecuniary profit" (approved April 21, 1898), and the several supplements thereto and amendments thereof, promise WILLIAM ABBOTTS, JR., of Trenton, New Jersey, hereinafter called the obligee, upon surrender hereof to said association after the death of said obligee, to pay the sum of two hundred dollars, without interest, to the widow of said obligee, and if there be no widow then to the executors or administrators of said obligee, or in case this bond shall have been assigned as provided herein, then to the assignee thereof; provided the surplus or sinking fund for the payment of said mortuary bonds, at the time said payment shall become due and payable, is sufficient; if not, then as soon as 30

said fund shall be sufficient to make said payment. Payments of said bonds shall be made in the order that claims therefor are filed with the association.

This bond shall be registered in the name of said obligee on the books of the association and may be assigned or transferred only to such member of the [SEAL] Masonic Fraternity or other person as may be approved by the trustees of this association. No assignment or transfer hereof shall take effect until registered on the books of the association.

In witness whereof, Trenton Masonic Temple Association has caused these presents to be signed by its President and Treasurer, attested by its Secretary and its corporate seal to be hereto affixed this 16th day of October, 1928.

TRENTON MASONIC TEMPLE ASSOCIATION.

By ADAM EXTON,

President,

GEO. A. KATZENBACH,

Treasurer.

Attest: HENRY U. COLEMAN,

Secretary.

The individual member associations, from time to time, contribute various sums which are set aside for the eventual payment of such mortuary bonds upon the decease of the contributing member. This fund is held in trust, separate and apart from the other funds contributed, and is used only for the purpose of paying off the mortuary bonds when due. Such contributions not having been sufficient to pay the entire costs of the building, a mortgage was negotiated and the interest thereon is paid by the corporation and the amount thereof included in the various proportionate amounts paid by the various member associations toward the upkeep of the building.

This corporation owns no other property other than what is mentioned in this stipulation.

With the exceptions hereinafter mentioned, the building and land whereon the same is erected is actually and exclusively used, and was, at the time the assessment was made, being used in the work of twelve Masonic organizations, known as Trenton Lodge, No. 5, F. and A. M., Mercer Lodge, No. 50, Ancient Free and Accepted Masons, Ashlar Lodge, No. 76, Ancient Free and Accepted Masons, Column Lodge, No. 120, F. and A. M., Fraternal Lodge, No. 139, F. and A. M., Loyal Lodge, No. 181, F. and A. M., True Craftsman Lodge, No. 202, F. and A. M., Three-Times-Three Chapter, No. 5, Royal Arch Masons, and Palestine Commandery, No. 4, Knights Templar.

All of the associations above mentioned, using the building, are voluntary associations, the first seven mentioned being subordinate lodges of "The Grand Lodge of the Most Ancient and Honorable Society of Free and Accepted Masons of New Jersey," a New Jersey corporation organized under the authority of Chapter 99 of the Laws of 1866, page 248, and the societies holding warrants from such organizations. The other two associations, using the building, are voluntary associations holding charter under the York Rite of Masonry and being commonly called "Higher Degrees".

The following is a copy of the charter issued to Loyal Lodge, No. 181, by The Grand Lodge of the Most Ancient and Honorable of Free and Accepted Masons of New Jersey, the charters issued to the other lodges being similar thereto:

“THE GRAND LODGE OF NEW JERSEY

To All Whom It May Concern

THE GRAND LODGE of the Most Ancient and Honorable Society of Free and Accepted Masons, for the State of New Jersey (according to the old Con-

stitutions, revived by his Royal Highness, Prince Edwin, at York, in the Kingdom of England, in the year of the Christian Era, Nine Hundred and Twenty-six, and in the Year of Masonry, Four Thousand Nine Hundred and Twenty-six) in Ample Form assembled at Trenton, in the State of New Jersey, aforesaid, send greeting:

Know ye, that we, THE GRAND LODGE OF NEW JERSEY, Do hereby nominate, constitute and appoint
10 our trusty and well beloved Brethren Richard C. Chamberlain Master, John E. Gill Senior Warden, and John R. Summerfeldt Junior Warden, of a lodge of Ancient Free and Accepted Masons, to be known and distinguished by the name of Loyal Lodge, No. 181, with full powers to hold their lodge in City of Trenton in the said State, and to admit, enter, and make Free Masons, according to the Ancient and Honorable Custom of the Royal Craft, in all Ages and Nations, throughout the World. We
20 do further empower the said officers, and their successors, of said Loyal Lodge, No. 181, together with the members thereof, to hear and determine all matters of Masons or Masonry within the limits or jurisdiction of this warrant: strictly requiring every brother, as a member of said lodge, to be conformable to all and every the good rules of the same: and also, to all the decree and orders of the Most Worshipful, the said Grand Lodge of New Jersey, which from time to time shall be decreed
30 and ordered. And we do further order, authorize, and empower our said trusty and well beloved brethren aforesaid, together with the members of said lodge, to nominate, chose, and install their successors, to whom they shall deliver this warrant, and invest them with all their powers and dignities, as Ancient Free and Accepted Masons; and such successors, in like manner, shall nominate, choose, and install with the same powers and privileges, their successors for ever: Such election and instal-

lation to be upon (or immediately preceding) every St. John the Evangelist's Day, during the continuance of this lodge; provided always, that the above-named brethren, and members of the said lodge, and their successors, shall continue at all times, to pay due respect and obedience to this Most Worshipful Grand Lodge, agreeably to the rules and ordinances lawfully made, or to be made, for the benefit of Masonry, and the advancement of our royal craft, otherwise this warrant to be of 10
no force or virtue.

[SEAL] GIVEN, in open Grand Lodge, under the hands of the Most Worshipful Grand Master and the Right Worshipful Grand Officers, and the Seal of our Grand Lodge, at Trenton, this twenty-third day of March, A. D. Nineteen hundred and five and of Masonry, five thousand nine hundred and five.

20

BENJ. F. WAKEFIELD, *Grand Master*,
WALTER CHANDLER, *D. G. Master*,
AUSTEN H. MCGREGOR, *S. G. Warden*,
JOSEPH H. HOUGH, *J. G. Warden*.

THOS. H. R. REDWAY,
Grand Secretary.

The corporation also permits and has permitted, since the building was opened, the Grand Secretary of "The Grand Lodge of Most Ancient and Honorable Society of Free and Accepted Masons of New Jersey" to occupy a room on the first floor of the Temple as his office, in which he keeps the records of the Grand Lodge of New Jersey and attends to the correspondence of the Grand Lodge and the Grand Master thereof with the several subordinate lodges in the State of New Jersey, including the lodges which are members of the association owning the building, and various individual members 30

as occasion may require, and also performs such duties as may be required for the furtherance of Masonry purposes.

The Grand Secretary receives a salary from the Grand Lodge for his services, the salary being paid out of the Grand Lodge funds which, in turn, are made up by the dues paid into the Grand Lodge by the various subordinate lodges, including member associations of the corporation owning the building in question. The Grand Lodge also contributes to the Trenton Masonic Temple Association, from time to time, a sum which is calculated to be the proportionate cost of the heat, light, cleaning service, etc., in the room occupied by the Grand Secretary in the Temple Building. No rent is charged and no profit on the transaction is made or expected to be made.

The association also permits Capital Chapter Order of De Molay to hold its meetings twice a month in a room in the Temple building, without charge. The Order of De Molay is composed of boys between the ages of sixteen and twenty-one and is an organization fostered by the various Masonic bodies, with the purpose in mind of molding the young manhood into useful and law-abiding citizenship. The membership of this boys' organization is regardless of Masonic affiliations and is supported by funds of the various Masonic bodies and individual Masons. The boys conduct their meetings under the supervision of representative Masons in the city appointed by the several Masonic bodies for that purpose. During the meetings certain lessons are taught, by means of lectures or ritualistic work enjoined upon the boys filial love, reverence for sacred things, courtesy, comradeship, fidelity, cleanness in thought, words and deeds and patriotism.

No part of the building is rented out at any time, and no profit of any kind is made from the build-

ing or the lands on which it stands. The land and building is owned by the Trenton Masonic Temple Association, a corporation organized under and existing by virtue of the provisions of an act of the Legislature of the State of New Jersey entitled "An act to incorporate associations not for pecuniary profit," approved April 21, 1898, and the several supplements thereto and acts amendatory thereof, the charter being as hereinabove set forth. The corporation makes absolutely no profit in the transaction whatever. Through its Board of Trustees, who are members of and selected by the member associations, it takes care of the building, pays the expenses thereof and arranges for the use of the building by the various associations and the members thereof. No other business is transacted by the corporation. No officer of the corporation receives any salary or pay for his services. No part of the building is rented.

The expenses of the upkeep of the building are divided among the several Masonic organizations using the building, outside of what is contributed by the Grand Lodge, as above set forth, in such a manner that each body is entirely satisfied with the proportion contributed by the other. Each of the member associations possess a treasury of its own, made up of funds contributed by its individual members, who pay a small annual sum in dues. No attempt is made by such bodies to build up a large surplus, the amount realized from dues and initiation fees, in addition to the amount contributed toward the expenses of the upkeep of the Temple, being used for the purposes of the member associations as shown on this hearing. No benefits or premiums are paid, to or by such associations, and no salaries are paid except a nominal sum paid by the individual Masonic bodies to its secretary for his work in sending out notices of meetings, keeping the minutes of the lodge, etc.

The temple building consists of three stories and a basement. The third floor is as yet unfinished and is now used as a store room for furniture, records, etc. It is designed, for the use, when finished, for lodge room meeting purposes. The second floor is composed of three lodge meeting rooms, lodge meetings only being held there. On the first floor is the office of the Grand Secretary; the caretaker's office; a lounge room, equipped with chairs, tables, lounges, magazines, papers and radio, used by the members of the member associations for committee meetings, and for social and recreational purposes. Just off the lounge room at the left is a pool room, with four tables, where the members may play pool and billiards. No income is derived by the association, or its member associations from the pool room. To the right of the lounge room is a library room, equipped with chairs and tables and a library of Masonic literature. There is also a cloak room, on this floor. In the basement are toilets, and a room, with a kitchen attached, which room is capable of being partitioned off, if necessary, into three rooms by means of portable partitions. In this room are held the meetings of the De Molay boys, and an occasional banquet or light lunch are held there, by the various member associations for its members, at which no charge is made. Neither the room or the kitchen is ever rented or hired out, and none other than strictly Masonic functions are held there. No charge is made to the member associations for its use and no income is derived therefrom.

CHAS. E. BIRD,

*Attorney for City
of Trenton.*

WILLIAM ABBOTTS, JR.,

*Attorney for Trenton Ma-
sonic Temple Association.*

Endorsed:

STATE BOARD OF TAXES AND ASSESSMENT

CITY OF TRENTON, *Appellant*,

vs.

TRENTON MASONIC TEMPLE ASSOCIATION, *Defendant*.

On Appeal, Etc.

STIPULATION OF FACTS

10

William Abbotts, Jr.

Counsellor at Law

Trenton, N. J.

Trenton Trust Building

STATE BOARD OF TAXES AND ASSESSMENT.

20

CITY OF TRENTON,

vs.

TRENTON MASONIC TEMPLE ASSO-
CIATION and MERCER Co. BOARD
OF TAXATION.

TESTIMONY

Testimony taken at the State House, Trenton, N. J., at 11 A. M., on Tuesday, November 26, 1929, before the State Board of Taxes and Assessment.

30

Appearances—

R. P. Rimo, Esq., Counsel for Petitioner.

William Abbotts, Jr., Esq., Counsel for Respondent.

By Mr. Rimo—If it please the members of the board, this appeal taken by the City of Trenton and Mr. Abbotts represents the Trenton Masonic Temple Association. We have stipulated on the facts in the case in order to shorten the situation

for the members of the board and all parties concerned. We would like, at this time, to make this stipulation as part of the record in the case.

By Mr. Weaver—No oral proofs?

By Mr. Rimo—We have no rebuttal proofs.

By Mr. Weaver—Your particulars are contained in these facts?

By Mr. Abbotts—Other than what is to be testified to.

10

BENJAMIN F. HAVENS, being sworn, testifies as follows:

Direct Examination—by Mr. Abbotts.

Q. Mr. Havens, you are Grand Master of Masons of the State of New Jersey? A. I am.

Q. And what other offices have you had in Masonic lodges? A. I have held all the offices in the lodge, including Master.

20 Q. How long have you been a Mason? A. Since 1913.

Q. And of what lodge are you a member? A. Column 120, Trenton.

Q. And that lodge meets in the Masonic Temple? A. It does.

Q. Do you know of what other Masonic organizations meet there in the Masonic Temple? A. Six other Masonic lodges—the Chapter, the Council and the Commandery.

30 Q. Are you a member of the Chapter and the Commandery, also— A. I am. Also, the Council.

Q. And have you also visited the other six lodges? A. I have, many times.

Q. And sat there in their meetings? A. Very many times.

Q. Did you also hold another position under the Grand Lodge of New Jersey, as District Deputy? A. I did, from 1919 until 1926.

Q. And by reason of that position were you the instructor of this district for the ritualistic work?

A. I was and it was my duty to visit each lodge at least once a year and I visited them frequently.

Q. And did you instruct the ritualistic work in all of the seven lodges which met in the Masonic Temple in Trenton? A. I did and also some other lodges outside and near Trenton, which comprises the 15th Masonic District.

Q. And are you thoroughly familiar with all of the work of Masonic Lodges? A. I feel that I am. 10

Q. Do you know of a definition of Masonry, which is approved by the Grand Lodge of the State of New Jersey and Masonry in general? A. I do know and one very perfect one—one authorized by the Grand Lodge for use in all lodges.

Q. Will you give that definition? A. "Freemasonry is a beautiful system of morality, veiled in allegory and illustrated with symbols." I might leave out a few words which are not pertinent. 20
"Truth is its center. It is founded on the purest principles of morality, brotherly love and charity."

Q. Now, that book you are reading from, Mr. Havens, what is that? A. The Masonic Manual established by the Grand Lodge, for the use of the lodges in this grand jurisdiction.

Q. And that is the official published ritual of Masonic lodges? A. It is. It bears that imprint on the face, as authorized by the Most Worshipful Grand Lodge of the State of New Jersey. 30

By Mr. Abbotts—I offer that in evidence and ask it be marked? No objection?

By Mr. Rimo—This has been read into the evidence.

By Mr. Abbotts—I want to put the whole pamphlet in evidence.

[Manual was then marked R 1.]

Q. Mr. Havens, from your experience as a Master Mason of long standing and as Grand Master of

Masons of the State of New Jersey and from the Manual which you have in your hand, what are the aims and objects of Masonic lodges and particularly the Masonic lodges which meet in the Masonic Temple in Trenton? A. To teach charity and uprightness, honesty, patriotism, morality and mostly advancement and improvement.

Q. Can you point to any particular passages in that Manual which brings out those points?

- 10 A. There are so many that I do not know hardly which one to take first. Perhaps this particular charge which is made to an entered apprentice Mason. An entered apprentice being the first degree in Masonry and it partially covers it at least. He is told that, "There are three great duties, which, as a Mason, you are charged to inculcate—to God, to your neighbor, and to yourself. To God, in never mentioning his name but with that reverential awe which is due from a creature to his
- 20 Creator; in imploring his aid in all your laudable undertakings, and in esteeming him as the chief good; to your neighbor, in acting upon the square, and in doing unto him as you wish he should do unto you; and to yourself, in avoiding all irregularity and intemperance, etc.," and then follows, "In the State, you are to be a quiet and peaceable citizen, true to your government and just to your country. You are not to countenance disloyalty or rebellion, but patiently to submit to legal authority,
- 30 and to conform with cheerfulness to the government of the country in which you live. In your outward demeanor, be particularly careful to avoid censure or reproach." Page 28, for the benefit of the stenographer. There is much more, so very much more of the same character. Characters of our teachings seem to be in that line, Mr. Abbotts.

Q. Any other aim or object of the Masonic lodge that meet in this building than to promote the moral and kindly welfare of its members and mankind in general? A. I know of no other object.

Q. Any connection between Masonry and religion, Mr. Havens? A. There is a distinct communication, so much so that we have often been called a second Church.

Q. Is there any reference in the Manual of religion?

A. I might refer to this particular section, of which there are many others, on page 33, which comes in the Fellow Craft Degree, or the second degree which is conferred upon petitioner. “By 10 speculative Masonry we learn to subdue the passions, act upon the square, keep a tongue of good report, maintain secrecy, and practise charity. It is so far interwoven with religion, as to lay us under obligation to pay that homage to the Diety which at once constitutes our duty and our happiness. It leads the contemplative to view with reverence and admiration the glorious works of creation, and inspires them with the most exalted ideas of the perfection of their Divine Creator.” 20

Q. Is there any connection between Masonry and the Holy Bible, Mr. Havens? A. There is very much connection between Masonry and the Holy Bible.

Q. What is that connection? A. A lodge can not function without a Holy Bible. It is a basic part of all its belief and all its teachings and all its governings and I refer particularly for that the second land-mark in Masonry, being the established foundation of our ideas in that line, which is found in a little pamphlet called “By-Laws of Column Lodge” and many other correspond. Page 18, “The Great Light in Masonry.” I presume I should first say the following ten (10) land-marks are the Masonic land-marks. “2. The acceptance of the revered word of God as the rule and guide for our faith and practise and its physical presence in every lodge.” If a man has no belief in God, he can never be made a Mason. 30

Q. You are reading, Mr. Havens, from a book which contains the land-marks of Freemasonry?

A. Yes, sir.

Q. And the Masonic lodges must subscribe for these land-marks? A. Yes, sir.

By Mr. Abbotts—I offer this book in evidence.

[This book was marked R 2.]

Q. Now, this book also contains the by-laws of Column Lodge, does it not? A. It does.

10 Q. Do you know the by-laws of other lodges, or looked into them? A. Similar indeed with such changes that might fit their particular locality, but they lean about the same.

By Mr. Abbotts—I now offer the whole book, as showing the by-laws and constitution of the lodge.

By Mr. Rimo—No objection.

By Mr. Weaver—Let it be marked.

[Book containing by-laws and constitution of Column Lodge was marked R 2.]

20 Q. You are also a member, you say, of the Chapter and Commandery, which meet in this building, Mr. Havens? Is there any particular difference between the teachings of the Chapter and the Commandery and the other lodges and if so, what is the difference? A. I think there is no particular difference so far as the kindly and moral side is concerned. Of course they have other degrees and they perform them in other ways, but in the last analysis, they do teach and to make it brief, just
20 about the same ideas of patriotism, honesty, charity and kindness, faith in God, upright character.

Q. And teach it just in a different way? A. In a different way.

Q. Now, you have produced this Manual with which you say you are familiar. How is that Manual, in the teachings of Freemasonry brought about in the lodge room? A. The degrees are conferred—a particular part of the wording spoken there, certain parts of it are not printed here, being what is

known as the secret or oratory work, but all of this work is used so far as this Manual goes to the Entered Apprentice, the Fellow Craft and Master Mason Degree. In the back of the book are other ceremonies for Grand Lodge constituting lodges, installing officers, dedicating services, etc., but from the beginning, practically right straight through to page 68, inclusive, every word of that is spoken in a Masonic lodge to a candidate, in either one, two or three—the first, second or third degree, in accordance with the degree being conferred. 10

Q. Is that the work which is given in the Masonic lodge regularly? A. Yes, sir.

Q. And repeatedly? A. Yes, sir, it is.

Q. Now, you say there is some secret part of the work, Mr. Havens? That is true, is it not? A. There is some work that is called the secret work. There are considerable words spoken in regard to conferring the degrees which are not printed in the Manual and not given to any person, but from mouth to ear. 20

Q. There are some secret pass words, are there not? A. Yes, sir.

Q. And secret grips? A. There are.

Q. Outside of the secret pass words and secret grips, is there any of the secret work which does not conform itself with the moral principles and precedents which are set forth in this Manual? A. There are not.

Q. The secret work, outside of the grips and pass words, is just further explanation of the same things that are in the Manual? A. It is a rudiment and illustration of that. 30

Q. The secrecy is a matter of secrecy of the manner of giving it, is it not? A. That is it.

Q. Not of the contents of it? A. That is all.

Q. Is there anything in the secret work which a man who is not a Mason might not already know if he read without knowing the exact form in which it is given in the lodge?

A. Not so much the way—of course passages in the Bible, which are the exact words of the ritualistic work of the Entered Apprentice, every one knows as much as a Mason. He has a degree, but can't recognize it immediately and he might pass it over the same as any other passage of the Bible.

Q. Are there any other standard works recognized by the Grand Lodge of the State of New Jersey, Masonry in general as being standard works
10 which is explanatory of the teachings of Masonry?

A. There are. There are countless numbers which are favored and approved and which all Masons are asked to read, if they care to and have the time they should, we have particularly prescribed by the Grand Lodge for the candidates in Masonry, three books that are numbered one, two and three, to correspond with the degrees one, two and three, being given the Entered Apprentice, Fellow Craft and Master Mason, in order. After a man is entered, he is presented with this pamphlet which I
20 hold in my hand, being Pamphlet No. 1, and which contains an explanation and in many cases, a repetition of just what he has heard with a view of impressing upon his mind the moral, kindly and religious ideas which have been spoken to him during the conferring of the degree.

Q. Can you pick out any particular passage from one of those books which concisely states what Freemasonry is? A. I thought that one on page
30 71, of Pamphlet No. 1, or Part 1, answers that. It refers to the jewels of the lodge, which is a symbolism. "They are six in number, the Square, the Level, the Plumb, the Rough Ashlar, the Perfect Ashlar, and the Trestleboard." I might omit some of the words. "The real jewels of the lodge, however, are what the Square, the Level, the Plumb, the Rough Ashlar, the Perfect Ashlar and the Trestleboard typify, that is to say, (1) morality symbolised by the Square; (2) equality—

By Mr. Weaver—Why can't this all be put in, in the introduction of the book by calling attention to the page? We might save time.

By Mr. Abbotts—I trust the board will read them. I would like to offer them.

A. Might I say there is one that I will read to the very end, this is very brief, "Bearing in mind that the lodge typifies human society organized into government, it follows that the jewels of any state or nation are, (1) a sturdy, honest, sterling people, which, though uneducated to begin with, is capable by education and training and by a due use of and attention to the great truths to be learned from (2) nature and revelation, of being developed into (3) a cultivated and refined citizenship characterized by (4) morality of conduct, etc." I thought that part referred to morality as much as anything. 10

By Mr. Abbotts—I now offer all three of the books on the Symbolism of Freemasonry, by Oliver Day Street. 20

[Book, Part One, was marked R3; Book, Part Two, was marked R 4 and Book, Part Three, was marked R 5.]

Q. Now, do you have any other books that are recognized as authorities on Masonic teachings?

A. I have also one volume of my own library here, being No. 16, "The Ethics of Freemasonry," but perhaps in view of what has been said so fully it would not aid particularly to the vast volume of the same line of material which exists. I couldn't hold them all. 30

Q. This is another authority on Freemasonry, Mr. Havens? A. Yes, sir.

By Mr. Abbotts—I offer that in evidence also.

[Book entitled, "The Ethics of Freemasonry," was marked R 6.]

Q. Mr. Havens, if you took from the Masonic lodges these moral and kindly teachings and precepts, which you have explained and which are ex-

plained in the Manual and these other books, do you have anything left? A. Nothing material at all.

Q. Would there be any reason for the existence of any of these Masonic lodges which meet in the Masonic Temple in Trenton if you took away the moral and kindly teachings and precepts? A. There certainly would not be, because with our charity and great efforts to just do better and assist people
10 to be better, is all there is to it.

Cross-examination.

By Mr. Rimo—If it please the members of the board, the testimony from these books comes to our attention for the first time and of course we have no way of conducting any cross-examination that would minimize the points that may be used in this matter and therefore, under the circumstances, if there is any other proof to be taken, we would be
20 willing to have it taken, subject to any cross-examination that we might have and ask for a continuation to some later date when we would present or ask to present a brief on any points.

By Mr. Weaver—We will take care of that.

By Mr. Weaver—What are the nature of the social activities connected with the order?

A. I know of none whatever connected with the lodge itself, except just the meetings, and sometimes they will have a special degree night; sometimes nights when the officers, or Past Masters conduct the degrees other than the regular officers;
30 visitation by the Grand Master and Grand Officers, making them features of the evening, but so far as the Masonic lodge itself, it never conducts an affair or anything of that character.

Q. How is the building used in that respect? A. As far as I know, it is only used for the work of these various degrees and receptions and things like that.

Q. What is the nature of receptions? A. That would be, for instance, where a lodge would ask the Grand Master and officers to visit with them when they would confer the Master Mason degree, the Grand Master would come with his officers and be received in due form, might say a few words and might be furnished with refreshments like ice cream and cake, but nothing in the way of dances, parties, money-making matters, nothing of that character that I know of.

10

By Mr. Abbotts—I might say, Mr. Weaver, for the benefit of the board, that we do have, at times, a lunch downstairs, etc. It is covered in the stipulation, but not a paid luncheon or anything of the kind.

By Mr. Weaver—Who does pay for it?

A. By the lodge itself. They might have a reception for the Grand Officers and they would provide refreshments for them.

Q. No balls or entertainments? A. No, sir, 20 never to my knowledge.

Q. No part of it rented to outside? A. No part of the building rented. The Grand Lodge makes use of four rooms.

By Mr. Weaver—Which is a part of Masonry and which is stipulated?

By Mr. Abbotts—That part is covered by stipulation.

By Mr. Weaver—What is the total membership of the twelve lodges that meet in the Masonic 30 Temple?

A. In the first place, may I say, that generally speaking, there are originally seven lodges there, you see, that belong to Column Lodge and also belong to the chapter. That makes him a member of two things and only one person, so I think to get it accurate it would have to be taken notice of, but can give you a quick idea that there are 3,000 Masons perhaps.

By Mr. Abbotts—Four thousand.

A. 4,000 Masons belong to the seven lodges which enter that building and many of us belong to the other lodges and might be a few outside people from the lodges nearby.

By Mr. Weaver—Do those 4,000 members pay the regular dues? I received one this morning. Are all the dues the same?

A. Yes. The Chapter has a little different price, the Council a little different fee, your dues of the Commandery a little different. The lodges are all just the same.

By Mr. Weaver—There is one matter, I have only casually glanced at the papers, this property is all covered on which?

By Mr. Abbotts—Trenton Masonic Temple Association.

By Mr. Rimo—Isn't that covered in the stipulation? Where is the deed to the property, indicating who held title on the first day of October?

By Mr. Abbotts—There is no dispute, as I understand it.

By Mr. Weaver—It is in the stipulation if not having brought the deed. I want to know where the title was the first day of October?

By Mr. Abbotts—In the Trenton Masonic Temple Association.

By Mr. Weaver—Who has examined the record here as to where the title was on the 1st of October, 1928?

By Mr. Abbotts—Your Honor please, I can't say I examined the record because it was so much of common knowledge, I didn't bother to examine it. I knew it.

By Mr. Rimo—Yes, sir, in the name of the association as of that date.

By Mr. Weaver—I am not talking of the assessment. In whose name is the recorded title?

By Mr. Rimo—As we understand it, it was in the Masonic association.

By Mr. Weaver—Which association? There are two associations here—one was a corporation under the Miscellaneous Corporation Act and the other was the title actually taken over by this new corporation?

By Mr. Abbotts—The title was.

By Mr. Rimo—I frankly admit it was in the name of the claimant of this exemption. 10

By Mr. Abbotts—I know that. I didn't examine the record, but know it.

By Mr. Weaver—With regard to this stipulation, we must know where the title was the first day of October. I want a certified copy of the deed, which shows where the title of the property was the 1st of October?

By Mr. Abbotts—I will furnish it.

By Mr. Weaver—That is probably the crux of the whole situation. We are acting here, if there is any exemption at all under the laws of New Jersey, the General Tax Act which was passed in 1927, we must have that fact. No further testimony by either side? 20

By Mr. Rimo—We ask for a fixed time, at this time and asked that it be adjourned no less than two weeks.

By Mr. Weaver—What is the necessity of any hearing? 30

By Mr. Rimo—We are here on this appeal, the appearance show by way of argument that the tax should be sustained and we rely upon the Bowling Speer Masonic Association case in our contention. It is a question of law and we would like to submit a brief on this situation and that is our purpose for asking for further time to look into these facts to see if there is anything further we might discover to take up later on. 30

By Mr. Abbotts—I don't know as I understand Mr. Rimo. Is it your purpose of adjourning to take further testimony just for argument and submit briefs and argue at that time on briefs?

By Mr. Rimo—Yes, sir, if you so desire, that is satisfactory to me. If your Honor will fix a time that we submit briefs, come back and I ask we forward briefs to your Honor and come back and argue the matters orally.

10 By Mr. Weaver—We will hold the matter over for two weeks, that is, the matter will be adjourned for two weeks. The evidence is closed so that the proof of the title of this property might be submitted in the form of a certified copy of the title of the property. Come here on that date.

20 I, Anna E. Bading, the stenographer designated by the State Board of Taxes and Assessment to report stenographically the evidence given before said board upon the hearing of the appeal of City of Trenton vs. Trenton Masonic Temple Association and Mercer County Board of Taxation, for the year 1929, do hereby certify that the foregoing is a true and correct transcript of the evidence given before said board at the hearing on Tuesday, November twenty-sixth, 1929.

ANNA E. BADING.

30 [SEAL] In witness whereof I have hereunto set my hand and seal, this twenty-sixth day of May, 1930.

I, Chas. E. Cook, Secretary of the State Board of Taxes and Assessment, do hereby certify and send to the Justices of the Supreme Court the foregoing transcript, as a true and correct transcript of the evidence given before the said board upon the hearing of the appeal of City of Trenton vs.

Trenton Masonic Temple Association and Mercer County Board of Taxation, for the year 1929, said evidence having been submitted at the hearing on Tuesday, November twenty-sixth, 1929.

In witness whereof I have hereunto set my hand and affixed the official seal
[SEAL] of the board, at Trenton, this twenty-sixth day of May, 1930.

CHAS. E. COOK,
Secretary. 10

Stamps \$12.00.

WILLIAM HOLLAND to TRENTON MASONIC TEMPLE ASSOCIATION :

This indenture, made the fifteenth day of May, in the year of our Lord one thousand nine hundred and twenty-four.

Between William Holland (widower) of the City of Trenton in the County of Mercer and State of New Jersey, party of the first part, 20

And Trenton Masonic Temple Association (organized under the non-profit act), a body corporate of the State of New Jersey, party of the second part;

Witnesseth that the said party of the first part, for and in consideration of twelve thousand dollars (\$12,000.00) lawful money of the United States of America, to him in hand well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents does give, grant, bargain, sell, alien, release, enfeoff, convey and confirm, unto the said party of the second part, its successors and assigns, forever, 30

All that certain lot, tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the City of Trenton, in the County of Mercer and State of New Jersey, fronting or in width twenty-two feet and six inches on the northerly side of Lafayette Street (formerly Washington Street) and extending thence in a northerly direction, the same width, twenty-two feet and six inches, by and between a lot of land
10 of the Grand Lodge of New Jersey, Free and Accepted Masons (formerly of Charles T. Fields) on the westerly side thereof, and a lot of land of the party of the second part (formerly of Edith Moore) on the easterly side thereof, eighty-seven feet more or less to lands of the party of the second part (formerly of A. A. Skirm and others).

Being the same premises conveyed to the said William Holland by Ella Boyd (widow) by deed dated June 29, 1917, and recorded in the Mercer
20 County Clerk's office in Book 401 of Deeds on page 425, etc.

Together with all and singular the houses, buildings, trees, ways, waters, profits, privileges and advantages, with the appurtenances to the same belonging or in anywise appertaining:

Also all the estate, right, title, interest, property, claim and demand whatsoever, of the said party of the first part, of, in and to the same, and of, in and to every part and parcel thereof,

30 To have and to hold all and singular, the above described land and premises, with the appurtenances, unto the said party of the second part, its successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, its successors and assigns forever:

And the said William Holland does for himself, his heirs, executors and administrators covenant and agree to and with the said party of the second part, its successors and assigns, that he, the said

William Holland, is the true, lawful and right owner of all and singular the above described land and premises, and of every part and parcel thereof, with the appurtenances thereunto belonging; and that the said land and premises, or any part thereof, at the time of the sealing and delivery of these presents, are not encumbered by any mortgage, judgment, or limitation, or by any encumbrance whatsoever, by which the title of the said party of the second part, hereby made or intended to be made, for the above described land and premises, can or may be changed, charged, altered or defeated in any way whatsoever;

10

And also, that the said party of the first part now has good right, full power and lawful authority, to grant, bargain, sell and convey the said land and premises in manner aforesaid;

And also, that he, the said William Holland, will warrant, secure, and forever defend the said land and premises unto the said party of the second part, its successors and assigns, forever, against the lawful claims and demands of all and every person or persons, freely and clearly freed and discharged of and from all manner of encumbrances whatsoever;

20

In witness whereof, the said party of the first part has hereunto set her hand and seal the day and year first above written.

WILLIAM HOLLAND (L. S.)

30

Signed, sealed and delivered in the presence of:
JOHN V. B. WICOFF.

STATE OF NEW JERSEY,)
COUNTY OF MERCER.) ss.

Be it remembered, that on this 16th day of May in the year of our Lord one thousand nine hundred and twenty-four, before me the subscriber, a Master in Chancery of New Jersey, personally appeared

William Holland (widower), who, I am satisfied is the grantor mentioned in the within indenture, to who, I first made known the contents thereof, and thereupon he acknowledged that he signed, sealed and delivered the same as his voluntary act and deed, for the uses and purposes therein expressed.

JOHN V. B. WICOFF,
M. C. C. of N. J.

No. 3220. Recorded May 16th, 1924, at 11:45
10 A. M.

STATE OF NEW JERSEY
COUNTY OF MERCER

OFFICE OF THE CLERK OF MERCER COUNTY

I, Charles P. Hutchinson, Clerk of the County of Mercer, and also Clerk of the Court of Oyer and Terminer, Court of General Quarter Sessions and Court of Special Sessions, in and for said county, the same being courts of record, holden therein, do
20 hereby certify that the foregoing is a true and correct copy of a certain deed as the same remains of record in my office, in Vol. 539 of Deeds, on page 46, etc.

In testimony whereof, I have hereunto set my hand and affixed my official seal
[SEAL] at Trenton, this 27th day of November,
A. D. 1929.

CHARLES P. HUTCHINSON,
Clerk.

30 Endorsed:

CERTIFIED COPY
DEED
WILLIAM HOLLAND
to
TRENTON MASONIC TEMPLE ASSN.
Mercer County
Clerk's Office
Trenton, N. J.
Charles P. Hutchinson, Clerk

Stamps \$8.50.

MERCER TRUST CO. TR. AL. to TRENTON MASONIC
TEMPLE ASSN.

This indenture, made the twenty-seventh day of July, in the year of our Lord one thousand nine hundred and twenty-five.

Between the Mercer Trust Company, a trust company existing under and by virtue of the laws of the State of New Jersey, substituted trustee under the last will and testament of Ellen G. White, deceased, who died testate in the City of Trenton, County of Mercer and State of New Jersey, and John M. White, of the City of Trenton, County of Mercer and State of New Jersey, life tenant under and by virtue of the terms of said last will and testament of Ellen G. White, party of the first part, and Trenton Masonic Temple Association, a corporation of the State of New Jersey (organized under the non-profit act) of the City of Trenton aforesaid, party of the second part;

Witnesseth, that the said party of the first part, for and in consideration of the sum of one dollar (\$1.00) and other good and valuable consideration, lawful money of the United States, to them, the said party of the first part, in hand well and truly paid by the said party of the second part, before the sealing and delivery of these presents, the receipt whereof the said party of the first part do hereby acknowledge, have granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, release, convey and confirm unto the said party of the second part, its successors and assigns.

All that certain tract or parcel of land and premises, situate, lying and being in the City of Trenton, County of Mercer and State of New Jersey, and particularly described as follows, to wit:

Beginning at a point on the northerly side of West Lafayette Street (formerly known as Wash-

ington Street), thirty-five feet and six inches from the southeast corner of a lot of land, formerly of Aaron D. Woodruff, deceased, and now or late of Eliza Moore and runs thence (1) along the northerly side of said street, eastwardly twenty-two feet to land now or late of John I. Nisbett, thence (2) by his line, and at right angles to said street, northwardly eighty-six feet, more or less to land late of Samuel Bellerjeau, deceased, thence (3) by the line
10 of said land westwardly twenty-two feet; thence (4) southwardly eighty-six feet six inches, more or less to West Lafayette Street (formerly known as Washington Street) and the place of beginning. Together with the right of way with full ingress and egress over and upon a strip of land, to wit, three feet in width and thirty feet in depth, to be used as an alleyway, along the easterly side of the house hereby conveyed, in common with the persons occupying the frame dwelling house on the east side,
20 now or late of John I. Nisbett.

Being seized of the premises hereinbefore described the said John Mutchler died leaving his certain last will and testament (recorded in the Surrogate's office of the County of Mercer in Book "K" of Wills, page 568), wherein and whereby he devised the said premises to his wife, Sarah G. Mutchler; and thereafter being seized of the said premises, the said Sarah G. Mutchler died intestate, and her two daughters and only heirs at law, Ellan
30 G. White and Sabilla Allen, became seized of said premises by intestate succession as tenants in common; and thereafter by the death of the said Sabilla Allen intestate, and the death of the husband of said Sabilla Allen, the said Ellen G. White, being the sister and only heir at law of the said Sabilla Allen, became seized of the entire premises aforesaid, and being so seized, died, leaving her certain last will and testament (recorded in said Surrogate's office, in Book "Q" of Wills, page 549),

wherein and whereby she devised said premises to her husband, Henry T. White (now deceased) for the term of his natural life, with the remainder at his death to the said Edgar A. White and Charles E. Daymond, trustee, as aforesaid, in equal shares.

And the said Edgar A. White and B. Anna White, his wife, by deed dated August 4, 1910, conveyed among others, the premises hereinabove described to Charles E. Daymond, trustee, under the last will and testament of Ellen G. White, deceased, which said deed is recorded in the clerk's office of Mercer County in Book 329 of Deeds, page 458. The Mercer Trust Company, was, by an order entered in the Mercer County Orphans' Court on October 3, 1919, appointed as substituted trustee under the last will and testament of Ellen G. White, and the said Charles E. Daymond was by said order relieved and discharged from all further duties as trustee.

The said Charles E. Daymond, trustee, thereupon and on August 6, 1919, conveyed, among others, the premises hereinabove described to the Mercer Trust Company, trustee under the last will and testament of Ellen G. White, deceased, which said deed was recorded in the clerk's office of Mercer County on July 24, 1925.

The said John M. White, life tenant, under and by virtue of the terms of the last will and testament of Ellen G. White, deceased, has joined in the execution of this conveyance for the purpose of releasing his life interest in the premises hereinabove described.

Together with all and singular the buildings, improvements, ways, woods, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances to the same belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and of every part and parcel thereof; and also all the estate, right, title, interest, use, prop-

erty, possession, claim and demand whatsoever, both in law and equity, of them the said party of the first part, in and to the said premises, with the appurtenances.

To have and to hold, the above described premises, hereditaments and premises hereby granted and every part and parcel thereof, with the appurtenances, unto the said party of the second part, its successors and assigns, to the only proper use, benefit and behoof of it, the said party of the second part, its successors and assigns forever.

And the said the Mercer Trust Company, substituted trustee under the last will and testament of Ellen G. White, deceased, for itself and its successors, and the said John M. White, life tenant under and by virtue of the last will and testament of Ellen G. White, deceased, for himself, his heirs, executors, administrators, do covenant with the said Trenton Masonic Temple Association, its successors and assigns, that they have not done or suffered to be done any act or thing to charge, alter, or encumber the estate hereby granted and conveyed; but that the same is granted and conveyed as full, free and entire to the said Trenton Masonic Temple Association, its successors and assigns, as ever it was vested in the said Ellen G. White.

In witness whereof, the Mercer Trust Company has caused its corporate seal to be hereto affixed and attested by its secretary, and these presents to be signed by its vice president, and the said John M. White has hereunto set his hand and seal the day and year first above written.

THE MERCER TRUST COMPANY
(Corp. Seal),

By H. F. TOMLINSON,
Vice President,

JOHN M. WHITE (L. S.).

Attest: RICHARD C. CHAMBERLAIN,
Secretary.

Signed, sealed and delivered in the presence of:

C. R. WHITLOCK.

STATE OF NEW JERSEY, }
COUNTY OF MERCER. } ss.

Be it remembered, that on this twenty-seventh day of July, A. D., one thousand nine hundred and twenty-five, before me, the subscriber, a notary public of the State of New Jersey, personally appeared R. C. Chamberlain, who, being by me duly sworn, doth depose and make proof to my satisfaction, that he well knows the corporate seal of the Mercer Trust Company, the grantor named in the foregoing deed: That the seal affixed thereto is the proper corporate seal of the said company: That the same was affixed thereto, and the said deed signed and delivered by H. F. Tomlinson, who was at the date and execution thereof the vice president of said company, in the presence of the said company, and that the said deponent thereupon signed the same as subscribing witness.

CARLISLE R. WHITLOCK,
Notary Public of N. J.

My commission expires August 28, 1928.

STATE OF NEW JERSEY, *
COUNTY OF MERCER. ss.

Be it known, that on the twenty-seventh day of July, in the year of our Lord one thousand nine hundred and twenty-five, before the subscriber, a notary public of the State of New Jersey, personally appeared John M. White, who, I am satisfied, is one of the grantors mentioned in the foregoing deed: and the contents thereof being by me first made known unto him, he did thereupon acknowledge that he signed, sealed and delivered the same

as his voluntary act and deed, for the uses and purposes therein expressed.

CARLISLE R. WHITLOCK,
Notary Public of N. J.

My commission expires August 28, 1928.

No. 5148. Recorded August 3, 1925, at 2:35 P. M.

10

STATE OF NEW JERSEY

COUNTY OF MERCER

OFFICE OF THE CLERK OF MERCER COUNTY

I, Charles P. Hutchinson, Clerk of the County of Mercer, and also Clerk of the Court of Oyer and Terminer, Court of General Quarter Sessions and Court of Special Sessions, in and for said county, the same being courts of record, holden therein, do
20 hereby certify that the foregoing is a true and correct copy of a certain deed as the same remains of record in my office, in Vol. 563 of Deeds, on pages 207, etc.

In testimony whereof, I have hereunto set my hand and affixed my official seal
[SEAL] at Trenton, this twenty-seventh day of November, A. D. 1929.

CHARLES P. HUTCHINSON,
Clerk.

30 Endorsed:

CERTIFIED COPY
DEED

MERCER TRUST CO. TR. AL.

to

TRENTON MASONIC TEMPLE ASSN.

Mercer County

Clerk's Office,

Trenton, N. J.

Charles P. Hutchinson, Clerk.

Stamps, fifty cents.

TRENTON MASONIC TEMPLE ASSN., to TRENTON

MASONIC TEMPLE ASSN.:

This indenture, made the nineteenth day of February in the year of our Lord one thousand nine hundred and twenty-six.

Between Trenton Masonic Temple Association, a corporation of the State of New Jersey organized under an act entitled "An act concerning corporations" (Revision of 1896), party of the first part, 10

And Trenton Masonic Temple Association, a corporation of the State of New Jersey organized under an act entitled "An act to incorporate associations not for pecuniary profit" (approved April 21, 1898), party of the second part;

Witnesseth, that the said party of the first part, for and in consideration of other valuable considerations and the sum of one dollar, lawful money of the United States of America, to it in hand, well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, has given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents does give, grant, bargain, sell, release, enfeoff, convey and confirm unto the said party of the second part, and to its successors and assigns, forever, 20 30

All that certain lot, tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the City of Trenton, in the County of Mercer and State of New Jersey, bounded and described as follows, to wit:

Beginning at a point in the southerly line of West Front Street, said point being in the northeasterly corner of lands of the City of Trenton, formerly of Mary M. Fleron; thence (1) south 20° 1' 40" west, along lands of the City of Trenton, one

hundred sixty-seven and twenty-two hundredths feet (167.22 ft.) to the northerly line of lands of the Grand Lodge of the Most Ancient and Honorable Society of Free and Accepted Masons of the State of New Jersey; thence (2) along the northerly line of lands of said Grand Lodge and lands of the party of the second part, south $68^{\circ} 25'$ east seventy-nine and fifteen hundredths feet (79.15 ft.) to corner of lands of the party of the second part; thence (3) 10 along lands of the party of the second part, formerly of William Holland, south $21^{\circ} 35'$ west eighty-seven feet (87 ft.) to the northerly line of Lafayette Street; thence (4) along the northerly line of Lafayette Street, south $68^{\circ} 25'$ east, seventeen feet (17 ft.) to the westerly line of lands of the party of the second part, formerly of Charles E. Damon, et al., thence (5) along the lands of the party of the second part, north $21^{\circ} 35'$ east eighty-seven feet (87 ft.) to a point; thence (6) 20 along lands of the party of the second part, south $68^{\circ} 25'$ east eight and fifty-three hundredths feet (8.53 ft.) to the westerly line of lands of St. Francis of Assisium; thence (7) along lands of St. Francis of Assisium, north 21° east one hundred sixty-eight and twenty-six hundredths feet (168.26 ft.) to the southerly line of West Front Street; thence (8) along the southerly line of West Front Street, north 69° west one hundred seven and fifty-one hundredths feet (107.51 ft.) to the point and place of beginning.

30 Being the same premises conveyed to the party of the first part by five certain deeds, namely:

1. Deed from William Holland (widower) dated May 14, 1917, and recorded in the Mercer County Clerk's office in Book 399 of Deeds on pages 450, etc.

2. Deed from Mary M. Fleron, *et vir.*, dated May 1, 1917, and recorded in said Clerk's office in Book 399 of Deeds on pages 435, etc.

3. Deed from Mary S. Wilson, *et vir.*, dated April 24, 1917, and recorded in said Clerk's office in Book 399 of Deeds on pages 437, etc.

4. Deed from Lewis S. Sadler, *et al.*, dated April 26, 1917, and recorded in said Clerk's office in Book 399 of Deeds on pages 433, etc.

5. Deed from Edith F. Moore, *et vir.*, dated April 1, 1921, and recorded in said Clerk's office in Book 472 of Deeds on pages, 59, etc.

Together with all and singular the houses, build- 10
ings, trees, ways, waters, profits, privileges and
advantages, with the appurtenances to the same be-
longing or in anywise appertaining :

Also, all the estate, right, title, interest, property,
claim and demand whatsoever, of the said party of
the first part, of, in and to the same, and of, in and
to every part and parcel thereof,

To have and to hold, all and singular the above
described land and premises, with the appurte- 20
nances, unto the said party of the second part, its
successors and assigns, to the only proper use, ben-
efit and behoof of the said party of the second part,
its successors and assigns forever :

And the said party of the first part does for it-
self, and its successors, covenant and agree to and
with the said party of the second part, its succes-
sors and assigns, that it, the said party of the first
part is the true, lawful and right owner of all and
singular the above described land and premises,
and of every part and parcel thereof, with the ap- 30
purtenances thereunto belonging ; and that the said
land and premises, or any part thereof, at the time
of the sealing and delivery of these presents, are
not encumbered by any mortgage, judgment or lim-
itation, or by any encumbrance whatsoever by
which the title of the said party of the second part,
hereby made or intended to be made, for the above
described land and premises, can or may be
changed, charged, altered or defeated in any way
whatsoever :

And also that the said party of the first part now has good right, full power and lawful authority to grant, bargain, sell and convey the said land and premises in manner aforesaid;

And also, that the said party of the first part, will warrant, secure, and forever defend the said land and premises unto the said party of the second part, its successors and assigns, forever against the lawful claims and demands of all and every person or
 10 persons, freely and clearly freed and discharged of and from all manner of encumbrance whatsoever.

In witness whereof, the said party of the first part hath caused its corporate seal to be hereto affixed and attested by its secretary and these presents to be signed by its president, the day and year first above written.

TRENTON MASONIC TEMPLE ASSOCIATION.

By S. E. KAUFMAN,

President (Corp. Seal).

20

Signed, sealed and delivered in the presence of:
 J. V. B. WICOFF.

Attest: EDGAR D. COLEMAN,
Secretary.

STATE OF NEW JERSEY, }
 COUNTY OF MERCER. } ss.

Be it remembered, that on this 19th day of February, nineteen hundred and twenty-six, before me
 30 personally appeared Edgar D. Coleman and made proof to my satisfaction that he is the secretary of Trenton Masonic Temple Association, the grantor named in the foregoing instrument; that he well knows the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation; that the said seal was so affixed and the said instrument signed and delivered by S. E. Kaufman, who was at the date thereof the president of said corporation, in the

presence of this deponent, who was at the date thereof the president, at the same time acknowledged that he signed, sealed and delivered the same as his voluntary act and deed, and as the voluntary act and deed of said corporation, and that deponent, at the same time, subscribed his name to said instrument as an attesting witness to the execution thereof; and that said deed was signed, sealed and delivered pursuant, to resolution of the stockholders and of the board of directors of said grantor. 10

EDGAR D. COLEMAN.

Sworn and subscribed before me at Trenton, New Jersey, the date aforesaid.

J. V. B. WICOFF,
M. C. C. of N. J.

No. 953. Recorded February 26, A. D. 1926, at 2:30 P. M.

20

STATE OF NEW JERSEY

COUNTY OF MERCER

OFFICE OF THE CLERK OF MERCER COUNTY

I, Charles P. Hutchinson, Clerk of the County of Mercer, and also Clerk of the Court of Oyer and Terminer, Court of General Quarter Sessions and Court of Special Sessions, in and for said county, the same being courts of record, holden therein, do hereby certify that the foregoing is a true and correct copy of a certain deed as the same remains of record in my office, in Vol. 575 of Deeds, on page 472, etc. 30

In testimony whereof, I have hereunto set my hand and affixed my official seal at Trenton, this twenty-seventh day of November, A. D. 1929.

[SEAL]

CHARLES P. HUTCHINSON,
Clerk.

Endorsed:

CERTIFIED COPY

DEED

TRENTON MASONIC TEMPLE ASSN.

to

TRENTON MASONIC TEMPLE ASSN.

Mercer County

Clerk's Office,

Trenton, N. J.

010

Charles P. Hutchinson, Clerk.

CITY OF TRENTON to TRENTON MASONIC TEMPLE
ASSN.:

This indenture, made the 19th day of
December, in the year of our Lord one
thousand nine hundred and twenty-
eight,

020

Between City of Trenton, a municipal corpora-
tion of the State of New Jersey, party of the first
part, and Trenton Masonic Temple Association, a
corporation of the State of New Jersey, party of
the first part, and Trenton Masonic Temple Asso-
ciation, a corporation of the State of New Jersey
organized under an act entitled "An act to incor-
porate associations not for pecuniary profit" (ap-
proved April 21, 1898), party of the second part:

030

Witnesseth that the said party of the first part,
for and in consideration of the sum of five hundred
dollars, lawful money of the United States of Amer-
ica, to it in hand well and truly paid by the said
party of the second part, at or before the sealing
and delivery of these presents, the receipt whereof
is hereby acknowledged, and the said party of the
first part being therewith fully satisfied, contented
and paid, has given, granted, bargained, sold,
aliened, released, enfeoffed conveyed and con-
firmed, and by these presents does give, grant, bar-

gain, sell, alien, release, enfeoff, convey and confirm unto the said party of the second part, and to its successors and assigns, forever,

All that certain lot, tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the City of Trenton, in the County of Mercer and State of New Jersey, bounded and described as follows, to wit:

Beginning at the intersection of the present westerly line of lands of Trenton Masonic Temple Association and the proposed new southerly line of West Front Street (said latter line being parallel with and distant ten feet (10 ft.) southerly from the present southerly line of West Front Street); and runs thence (1) south $20^{\circ} 01' 40''$ west, along the westerly line of lands of Trenton Masonic Temple Association, one hundred fifty-seven and twenty-six hundredths feet (157.26 ft.) to a point in the northerly line of a lot of land of the Grand Lodge of the Most Ancient and Honorable Society of Free and Accepted Masons of the State of New Jersey; thence (2) north $68^{\circ} 25'$ west, along the aforesaid northerly line of the aforesaid lands of the said Grand Lodge, eleven and thirty-one hundredths feet (11.31 ft.) to the easterly line of South Willow Street; thence (3) north $21^{\circ} 21' 30''$ east, along the said easterly line of South Willow Street, one hundred fifty-seven and fifteen hundredths feet (157.15 ft.) to the proposed new southerly line of West Front Street; thence (4) south $69^{\circ} 46'$ east, along the said proposed new southerly line of West Front Street, seven and sixty-seven hundredths feet (7.67) to the point and place of beginning.

Said premises having been sold to the party of the second part at public auction on April 30, 1926, after due advertisement thereof pursuant to resolution of the Board of Commissioners of the City of Trenton adopted at a duly held meeting on April 9, 1926, which sale was duly approved by a resolu-

tion of said Board of Commissioners duly adopted at a duly held meeting on April 30, 1926.

Together with all and singular the houses, buildings, trees, ways, waters, profits, privileges and advantages, with the appurtenances to the same belonging or in any wise appertaining:

Also all the estate, right, title, interest, property, claim and demand whatsoever, of the said party of the first part, of, in and to the same, and of, in
10 and to every part and parcel thereof.

To have and to hold all and singular, the above described land and premises, with the appurtenances, unto the said party of the second part, its successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, its successors and assigns, forever; provided, however, no building shall be erected on the above described premises nearer than eight feet nine inches (8 ft. 9 in.) to the easterly line of South Willow
20 Street, excepting always the now existing entrance steps, coping and appendages may remain, which steps are forty-five feet (45 ft.) in width, the northerly side of said steps being distant sixty-five feet (65 ft.) southerly from the present southerly line of Front Street, and excepting also any entrance steps from South Willow Street to any building which may replace the present steps if they shall not exceed in the aggregate forty-five feet (45 ft.) in width.

30 In witness whereof the said City of Trenton has caused its corporate seal to be hereunto affixed and attested by its City Clerk and these presents to be signed by its Mayor the day and year first above written.

CITY OF TRENTON.

By FRED'K W. DONNELLY,
Mayor (Corp. Seal).

Signed, sealed and delivered in the presence of:

Attest: LEON D. HIRSCH,
City Clerk.

STATE OF NEW JERSEY, }
 COUNTY OF MERCER. } ss.

Be it remembered, that on this nineteenth day of December, one thousand nine hundred and twenty-eight, before me, the subscriber, a Master in Chancery of New Jersey personally appeared Leon D. Hirsch and made proof to my satisfaction that he is the City Clerk of the City of Trenton, the grantor named in the foregoing instrument; that he well knows the corporate seal of said corporation; that the seal affixed to said instrument is the corporate seal of said corporation, that the said seal was so affixed and the said instrument signed and delivered by Frederick W. Donnelly, who was at the date thereof the Mayor of said City of Trenton, in the presence of this deponent, and said Mayor, at the same time, acknowledged that he signed, sealed and delivered the same as his voluntary act and deed and as the voluntary act and deed of said City of Trenton, pursuant to a resolution duly adopted by the Board of Commissioners of the City of Trenton at their meeting held on the thirtieth day of April, 1926, and that deponent, at the same time, subscribed his name to said instrument as an attesting witness to the execution thereof.

LEON D. HIRSCH.

Subscribed and sworn to before me, at Trenton, New Jersey, the day and year aforesaid.

CHAS. E. BIRD,

Master in Chancery of New Jersey.

No. 6474. Recorded December 24, 1928, at 12:10 P. M.

STATE OF NEW JERSEY

COUNTY OF MERCER

OFFICE OF THE CLERK OF MERCER COUNTY

I, Charles P. Hutchinson, Clerk of the County of Mercer, and also Clerk of the Court of Oyer and Terminer, Court of General Quarter Sessions and

Court of Special Sessions, in and for said county, the same being courts of record, holden therein, do hereby certify that the foregoing is a true and correct copy of a certain deed as the same remains of record in my office, in Vol. 640 of Deeds, on page 593, etc.

In testimony whereof, I have hereunto set my hand and affixed my official seal at Trenton, this twenty-seventh day of November, A. D. 1929.

10

[SEAL]

CHARLES P. HUTCHINSON,
Clerk.

Endorsed:

CERTIFIED COPY
DEED

CITY OF TRENTON
to

TRENTON MASONIC TEMPLE ASSN.

20

Mercer County
Clerk's Office,
Trenton, N. J.

Charles P. Hutchinson, Clerk.

STATE OF NEW JERSEY

30

STATE BOARD OF TAXES AND ASSESSMENT.

In the matter of the application of the City of Trenton from the action of the Mercer County Board of Taxation in cancelling the tax assessment levied for the year 1929 on property of Trenton Masonic Temple Association, situate in the City of Trenton, County of Mercer and State of New Jersey.

MEMORANDUM

(Filed April 8, 1930)

For Petitioner, CHARLES E. BIRD, Esq., and ROMULUS P. RIMO, Esq.

For Respondent, WILLIAM ABBOTTS, JR., Esq., and A. V. DAWES, Esq.

The Board: The property of "Trenton Masonic Temple Association" was held to be immune from taxation by the Mercer County Board of Taxation, by reason of the General Tax Act of 1918, as amended by Chapter 338 of the Laws of 1927. 10

Now comes before this board the City of Trenton and prays that the lien of the assessment entered in the tax list of the taxing district be restored. The association owned the property on the assessing date. The assessment was as of October 1, 1928, for the purpose of collecting taxes thereon payable in the following year. The controlling part of the statute which has application to this case reads as follows: 20

"All buildings *actually and exclusively* used in the work of associations and corporations organized *exclusively* for the moral and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one of more of such purposes. * * * Provided, * * * that the foregoing exemptions shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which such exemption is claimed." 30

The Trenton Masonic Temple Association was incorporated under the laws of this State in 1921 by several Masonic bodies of the City of Trenton, they being admittedly unincorporated associations,

under and by virtue of an act of the Legislature of New Jersey entitled, "An act to incorporate associations not for pecuniary profit," approved April 21, 1898, P. L. 1898, p. 422. The preamble of its charter, declaring that these Masonic bodies "realizing the necessity of the fraternity for suitable accommodations in Trenton, New Jersey," succinctly indicates the cause which brought about the organization of the Trenton Masonic Temple Association. Its objects are set forth in this manner:

20 "The purposes for which this corporation is formed are to acquire all the assets and assume all the liabilities of Trenton Masonic Temple Association, a corporation of New Jersey organized on April 26, 1917, under and by virtue of the provisions of the act of the Legislature of the State of New Jersey entitled 'An act concerning corporations' (Revision of 1896) and the several supplements thereto and acts amendatory thereof; to purchase a site and erect, maintain and operate a Masonic Temple in the City of Trenton, New Jersey, for the use and accommodation of the several Masonic bodies hereinafter mentioned and any other Masonic body hereinafter admitted, as well as the members thereof, for fraternal and charitable purposes; to take and hold, without limit as to amount, by lease, gift, purchase, grant, 30 devise or bequest, any property, real or personal, within or without the State of New Jersey and to sell, convey, mortgage or otherwise dispose of the same; to borrow money; to make and issue promissory notes, bills of exchange, bonds, debentures, obligations and evidences of indebtedness and to secure the same by mortgage, pledge or otherwise; to do all and everything necessary, suitable, convenient, or proper for the accomplishment of any of said

purposes or incidental thereto; and to have and exercise all the powers conferred by the statutes of New Jersey upon corporations organized under the act first hereinabove referred to."

The most casual reading of these objects makes it plain that this association is not organized *exclusively* for the moral and mental improvement of men, women and children, or for charitable purposes. It is not organized for any purpose for which an exemption may be allowed. Its first purpose is "to acquire all the assets and assume all the liabilities" of a business corporation; second, "to purchase a site and erect, maintain and operate a Masonic Temple in the City of Trenton, New Jersey," etc.; third, "to take and hold, *without limit as to amount*, * * * any property, real or personal, * * * and to sell * * * and mortgage * * * the same"; fourth, "to borrow money; * * * and issue * * * bills of exchange," etc. The functions of the association are those of an ordinary business enterprise conducted for profit.

The exemption from taxation is claimed on the ground that the building is occupied and *actually* and *exclusively* used in the work of Masonic bodies, or of others fostered by or affiliated with Free Masonry, which are in themselves said to be charitable in nature, but they neither own the building nor are they organized under the laws of this State for a purpose for which an exemption may be granted. Furthermore, they are not parties to the record and, of course, are not *claiming* the immunity. The exemption is being *claimed* by the respondent, "Trenton Masonic Temple Association," a corporation of this State *not* "authorized to carry out the purposes on account of which such exemption is claimed." Like circumstances are found in *Newark vs. Ezekiel Lodge*, 10 State Tax Bd., p. 31; *Montclair Lodge vs. Montclair*, 11 Id., p. 15; *Boil-*

ing Spring Masonic Association vs. Rutherford, 13 Id., p. 25. It is not necessary to decide other matters raised in the argument. The real value of the property has not come into question.

The assessment is restored and the action of the Mercer County Board of Taxation is reversed.
Endorsed:

STATE OF NEW JERSEY

10

STATE BOARD OF TAXES AND ASSESSMENT

STATE OF NEW JERSEY

STATE BOARD OF TAXES AND ASSESSMENT

In the matter of appeal of City of Trenton from the action of the Mercer County Board of Taxation in reducing the assessment on property of
20 Trenton Masonic Temple Association situate in the City of Trenton, County of Mercer, for the year 1929.

JUDGMENT

(Filed April 8, 1930)

An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by
30 said board, by the City of Trenton, a taxing district of this State in which it is alleged that an injustice has been done the said complainant by the action of the Mercer County Board of Taxation in cancelling and setting aside the tax assessment levied for the year 1929 on certain property of the Trenton Masonic Temple Association located at Trenton in the County of Mercer, consisting of land and building, known as lots Nos. 49, 67, 52R, 127R, 50R, 51R, 54R, 64R, 90R, 63R and 141, at the southeast

corner of Front and Willow Streets (said lots being set down on page 16 of the City Atlas) and that the said action of said board is illegal and contrary to law.

After hearing evidence produced on the part of said complainant and the said respondents, and the argument of Romulus P. Rimo, Esquire, for the complainant; William Abbotts, Jr., Esquire, for the said respondent taxpayer and for the County Board of Taxation, and after considering the same, 10
it is on this eighth day of April nineteen hundred and thirty, at a session of the State Board of Taxes and Assessment, ordered, adjudged and decreed, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$448,750.00, being \$38,750 on land and \$410,000 on improvements, levied by the Board of Commissioners of Assessment of Taxes of said City of Trenton on land and building of the said Trenton Masonic Temple Association, being lots Nos. 49, 67, 52R, 127R, 50R, 51R, 54R, 64R, 90R, 63R and 141, on page 16 of the City Atlas, at the southeast corner of Front and Willow Streets, in the City of Trenton, aforesaid, be and the same is hereby restored, and the action of the Mercer County Board of Taxation reversed and set aside. 20

F. D. WEAVER, *President,*

M. R. MARGERUM,

D. H. AGANS, 30

GEORGE COMPTON,

J. W. M. HUEGEL,

State Board of Taxes and Assessment.

Attest:

CHAS. E. COOK,

Secretary.

DOCKET

CITY OF TRENTON,
Petitioner,
vs.
 TRENTON MASONIC TEMPLE ASSO-
 CIATION and MERCER COUNTY
 BOARD OF TAXATION,
 10 *Respondent.*

Petitioner's attorneys, Charles E. Bird and Romulus P. Rimo.

Respondent's attorneys, William Abbotts, Jr., and A. V. Dawes.

Assessment of 1929.

Property: Land and building, Lots Nos. 49, 67, 52R, 127R, 50R, 51R, 54R, 64R, 90R, 63R and 141, southeast corner Front and Willow Streets, as-
 20 sessed \$448,750. Cancelled by County Board.

Amount: Judgment, \$448,750; L. \$38,750; B. \$410,000.

1929

Sept. 26 Petition filed.

Oct. 1 Hearing fixed for October 22 at Trenton and notice sent.

Oct. 22 Adjourned without date.

Nov. 12 Hearing fixed for November 26 at Trenton.

Nov. 26 Case heard and a stipulation of facts filed.

30 Further hearing and oral argument fixed for December 10 at Trenton. Briefs to be filed.

Dec. 10 Oral argument by counsel for both sides. Briefs submitted. Additional brief to be filed by counsel for respondent taxpayer. Decision reserved.

1930

April 8 Judgment entered reversing action of County Board and restoring assessment. Memorandum filed.

MINUTES

STATE HOUSE, TRENTON, NEW JERSEY.

Tuesday, October 1, 1929.

The board met at 10:30 A. M. on the above date. Present, President Weaver, Commissioners Agans, Compton and Huegel. Absent, Commissioner Margerum.

* * * * * 10

The Board fixed the following dates for hearing appeals from local assessments:

* * * * *

Tuesday, October 22: State House, Trenton: Mercer County cases.

* * * * *

STATE HOUSE, TRENTON, NEW JERSEY.

Tuesday, October 22, 1929.

The board met at 10:30 A. M. on the above date. Present, President Weaver, Commissioners Agans, Compton and Margerum. Absent, Commissioner Huegel.

* * * * * 20

The following calendar of appeals was called for hearing:

* * * * *

13. City of Trenton vs. Trenton Masonic Temple Association and Mercer County Board of Taxation. Case called and adjourned without date. 30

* * * * *

STATE HOUSE, TRENTON, NEW JERSEY.

Tuesday, November 12, 1929.

The board met at 10:30 A. M. on the above date. Present, President Weaver, Commissioners Compton and Huegel. Absent, Commissioners Agans and Margerum.

* * * * *

The following dates for hearings were fixed by the board:

Tuesday, November 26: State House, Trenton, 4 Atlantic, 1 Cape May and 3 Mercer County appeals.

* * * *

STATE HOUSE, TRENTON, NEW JERSEY.

Tuesday, November 26, 1929.

The board met at 10:30 A. M. on the above date.

10 Present, President Weaver, Commissioners Compton, Huegel and Margerum. Absent, Commissioner Agans.

* * * *

The following calendar of appeals was called:

1. City of Trenton vs. Trenton Masonic Temple Association and Mercer County Board of Taxation.

Case heard, Mr. Charles E. Bird and Mr. Romulus P. Rimo appearing for the petitioner and Mr. William Abbotts, Jr., appearing for the respondent
20 taxpayer. Counsel submitted to the board a stipulation of facts, and the testimony of Benjamin Havens was heard on behalf of the respondents. Further hearing and oral argument fixed for December tenth at Trenton. Briefs to be filed.

* * * *

STATE HOUSE, TRENTON, NEW JERSEY.

Tuesday, December 10, 1929.

The board met at 10:30 A. M. on the above date.

30 Present, President Weaver, Commissioners Agans, Compton, Huegel and Margerum.

* * * *

The following calendar of appeals was called:

1. City of Trenton vs. Trenton Masonic Temple Association and Mercer County Board of Taxation.

Case called, Mr. Charles E. Bird and Mr. Romulus P. Rimo appearing for the petitioner and Mr. William Abbotts, Jr., and Mr. Aaron V. Dawes appearing for the respondent taxpayer. The board

heard the oral argument of counsel and briefs were submitted by both sides. Decision reserved, pending the filing of an additional brief by counsel for the respondent taxpayer.

* * * *

STATE HOUSE, TRENTON, NEW JERSEY.

Tuesday, April 8, 1930.

The board met at 10:30 A. M. on the above date. 10
Present, President Weaver, Commissioners
Agans, Compton, Huegel and Margerum.

* * * *

The board took up the appeals heard and awaiting decision, and after reviewing and considering the evidence produced ordered judgments entered as follows:

City of Trenton vs. Trenton Masonic Temple Association and Mercer Co. Board of Taxation.

That the action of the Mercer County Board of 20
Taxation in cancelling the assessment of \$448,750, being \$38,750 on land and \$410,000 on improvements, levied for the year 1929 on property consisting of land and building, known as lots Nos. 49, 67, 52R, 50R, 127R, 51R, 54R, 90R, 63R and 141, at the southeast corner of Front and Willow Streets, and commonly known as Trenton Masonic Temple, be reversed and the assessment restored. A memorandum was filed in this case setting forth the grounds for the board's conclusions. 30

* * * *

STATE OF NEW JERSEY

STATE BOARD OF TAXES AND ASSESSMENT

I, Chas. E. Cook, Secretary of the State Board of Taxes and Assessment, do hereby certify, that the foregoing are true copies of the petition, judgment and proceedings in the matter of the appeal of City

of Trenton from the action of the Mercer County Board of Taxation in cancelling the assessment on property of Trenton Masonic Temple Association, situate in the City of Trenton, County of Mercer, for the year 1929 as the same are taken from and compared with the originals filed in the office of the State Board of Taxes and Assessment, on the twenty-sixth day of September and other dates, A. D. 1929 and 1930, and now remaining on file and
10 of record therein.

In testimony whereof, I have hereunto set my hand and affixed the official seal
[SEAL] of the Board, at Trenton this twenty-sixth day of May, A. D. 1930.

CHAS. E. COOK,
Secretary.

20

NEW JERSEY SUPREME COURT.

THE CITY OF TRENTON, <i>Defendant,</i> <i>vs.</i> TRENTON MASONIC TEMPLE ASSO- CIATION, <i>Prosecutor.</i>	}	On Certiorari.
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REASONS

(Filed June 20, 1930)

The Prosecutor hereby assigns the following reasons for reversal of the action of the State Board of Taxes and Assessment:

1. That the State Board of Taxes and Assessment erred in reversing the action of the Mercer County Board of Taxation;
2. That the State Board of Taxes and Assessment erred in holding that the Trenton Masonic

Temple Association is not organized for the moral and mental improvement of men, women and children, or for charitable purposes, within the purview of Chapter 338 of the Laws of 1927 of the State of New Jersey;

3. That the State Board of Taxes and Assessment erred in holding that the land and building of Trenton Masonic Temple Association was not actually and exclusively used in the work of the associations and corporations organized exclusively for the moral and mental improvement of men, women, and children, and for charitable purposes or one or more of such purposes within the purview of Chapter 338, of the Laws of 1927 of the State of New Jersey; 10

4. That the State Board of Taxes and Assessment erred in holding that the Prosecutor was not entitled, under Chapter 338 of the Laws of 1927 of the State of New Jersey, to claim exemption from taxation. 20

5. That the judgment of the State Board of Taxes and Assessment should have been in favor of the Prosecutor under the evidence and the statutes of the State of New Jersey in such case made and provided.

WILLIAM ABBOTTS, JR.,
Attorney for Prosecutor,
Trenton Masonic Temple Assn.

Due and legal service of a copy of the foregoing reasons is hereby acknowledged and consent is hereby given to the filing thereof as of within time. 30

CHAS. E. BIRD,
Attorney for Defendant,
The City of Trenton.

NEW JERSEY SUPREME COURT.

THE CITY OF TRENTON,

*Defendant,**vs.*TRENTON MASONIC TEMPLE ASSO-
CIATION,*Prosecutor.*

} On Certiorari.

10

NOTICE OF APPEAL AND GROUNDS*To Charles E. Bird, Attorney of Defendant, or to
Whom it May Concern:*

SIR—Please take notice that the prosecutor in the
above entitled cause appeals to the Court of Errors
and Appeals in the last resort in New Jersey, from
the whole of the judgment entered in this cause on
the following ground, to wit:

1. Because the Supreme Court erred in giving
judgment for the defendant instead of for the
prosecutor.

Respectfully yours,

WILLIAM ABBOTTS, JR.,

Attorney for Prosecutor.

NEW JERSEY SUPREME COURT,

No. 202, OCTOBER TERM, 1930.

THE CITY OF TRENTON,

Defendant,

vs.

TRENTON MASONIC TEMPLE ASSO-
CIATION,

Prosecutor.

10

Argued October 8, 1930. Decided October 17, 1930.

ON CERTIORARI

For defendant, Charles E. Bird.

For prosecutor, Aaron V. Dawes and William
Abbotts, Jr.

Before Justices Campbell and Bodine.

PER CURIAM: The writ brings up for review a 20
judgment of the State Board of Taxes and Assess-
ments reviewing an order of the Mercer County
Board of Taxation which restores an assessment
of taxes levied by the city of Trenton upon the
lands and buildings of The Trenton Masonic Tem-
ple Association in that city.

The association was incorporated in 1921 as an
association not for pecuniary profit. Pamphlet
Laws 1898, page 422. The charter provides that
the association may: "Acquire all the assets and
assume all the liabilities of Trenton Masonic
Temple Association * * * purchase a site and
erect, maintain and operate a Masonic Temple in
the city of Trenton, New Jersey, for the use and
accommodation of the several Masonic bodies here-
inafter mentioned and any other Masonic body
hereinafter admitted, as well as the members there-
for, for fraternal and charitable purposes; take

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and hold * * * by lease, gift, purchase, grant, devise or bequest, any property, real or personal, within or without the State of New Jersey, sell, convey, mortgage or otherwise dispose of the same; borrow money; make and issue promissory notes, bills of exchange, bonds, debentures, obligations and evidences of indebtedness and secure the same by mortgage, pledge or otherwise; do all and every-
10 the accomplishment of any of said purposes or incidental thereto.”

It appears from the agreed state of facts that the incorporators of the association are several Masonic lodges, who sought to provide suitable accommodations for Masonic purposes in Trenton. The purchase of the land and the erection of the building was financed by the individual members of the fraternity donating various sums for their
20 respective lives and receiving in return a mortuary bond by virtue of which the Masonic Temple Association agrees to pay the principal amount contributed upon the death of the contributor, provided that at such time there is sufficient money in the Mortuary Fund to pay the same.

The individual member associations, from time to time, contribute various sums which are set aside for the eventual payment of such mortuary bonds upon the decease of the contributing member. This
30 fund is held in trust, separate and apart from the other funds contributed, and is used only for the purpose of paying off the mortuary bonds when due. Such contributions not being sufficient to pay the entire costs of the building, a mortgage was negotiated and the interest thereon is paid by the corporation and the amount thereof is included in the various proportionate amounts paid by the various member associations toward the upkeep of the building.

The building and land whereon the same is erected is actually and exclusively used in the work of twelve Masonic organizations, but the Grand Secretary of the Grand Lodge also maintains in the building an office for the transaction of his Masonic duties. The Grand Lodge contributes a sum calculated to be the proportionate cost of the heat, light, cleaning service, etc., of the rooms occupied by the Grand Secretary. No part of the building is rented out at any time, and no profit of any kind is made from the building or the lands on which it stands. 10

The association claims exemption under Pamphlet Laws 1927, p. 791, exempting "All buildings actually and exclusively used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one or more of such purposes * * * provided, further, that the foregoing exemptions shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which such exemption is claimed." 20

Mr. Chief Justice Gummere said in *Sisters of Charity vs. Cory*, 73 N. J. L. 699, 706: "The true rule of construction upon this subject is accurately stated in 12 Am. & Eng. Encycl. L. (2d ed.) 302, as follows: 'A grant of exemption from taxation, being in the nature of a renunciation of sovereignty (or, as some jurists have expressed it, being in derogation of the sovereign authority and of common right), must invariably be construed most strictly against the grantee, and can never be permitted to extend, either in scope or duration, beyond what the terms of the concession clearly 30

require.' It has been declared and applied, not only by the United States Supreme Court, but by the courts of almost every state in the union, as will appear by the reference to the foot note in the American and English Encyclopedia of Law, which contains a citation of the decisions. We ourselves had declared this to be the true rule of construction prior to the promulgation of the decision in the Chatham Case. *Nevin vs. Krollman, Collector*, 9 Vroom 574; *State Board vs. Morris and Essex Railroad Co.*, 20 Id. 193; *State Board vs. Paterson, &c., Railroad Co.*, 21 Id. 446. The fact that the property involved in the present litigation is owned by a charitable organization and is devoted to charitable uses, affords no ground for excluding it from the operation of this rule."

20 The exemption created by the statute is of all buildings actually and exclusively used in the work of associations organized exclusively for the moral and mental improvement of men, women and children. The temple in Trenton is used exclusively by a number of organizations falling within the statutory category. If any one of the Masonic organizations owned and occupied the whole building the exemption would occur.

30 The title to the temple is held by a corporation organized by various Masonic lodges. No profits accrue to the landowner—the lodges contributing merely the proportionate share of the expense of operation. The corporation is a convenient legal entity in which to vest title to the building. But the corporation was not organized *exclusively for the moral and mental improvement of men, women and children*. It was organized for the purpose of affording accommodations for several Masonic lodges. The exemption of the statute is of all buildings actually and exclusively used in the work of corporations organized *exclusively* for a specific

purpose. If the association seeks an exemption it must strictly comply with the legislative grant. The Legislature has made the test of exemption not only the use of the building but the organization of the corporate owner—both must fall within the classification.

The judgment of the State Board will be affirmed.

NEW JERSEY SUPREME COURT. 10

THE CITY OF TRENTON,	}	On Certiorari.
<i>Defendant,</i>		
<i>vs.</i>		
TRENTON MASONIC TEMPLE ASSO-	}	
CIATION,		
<i>Prosecutor.</i>		

RULE FOR JUDGMENT

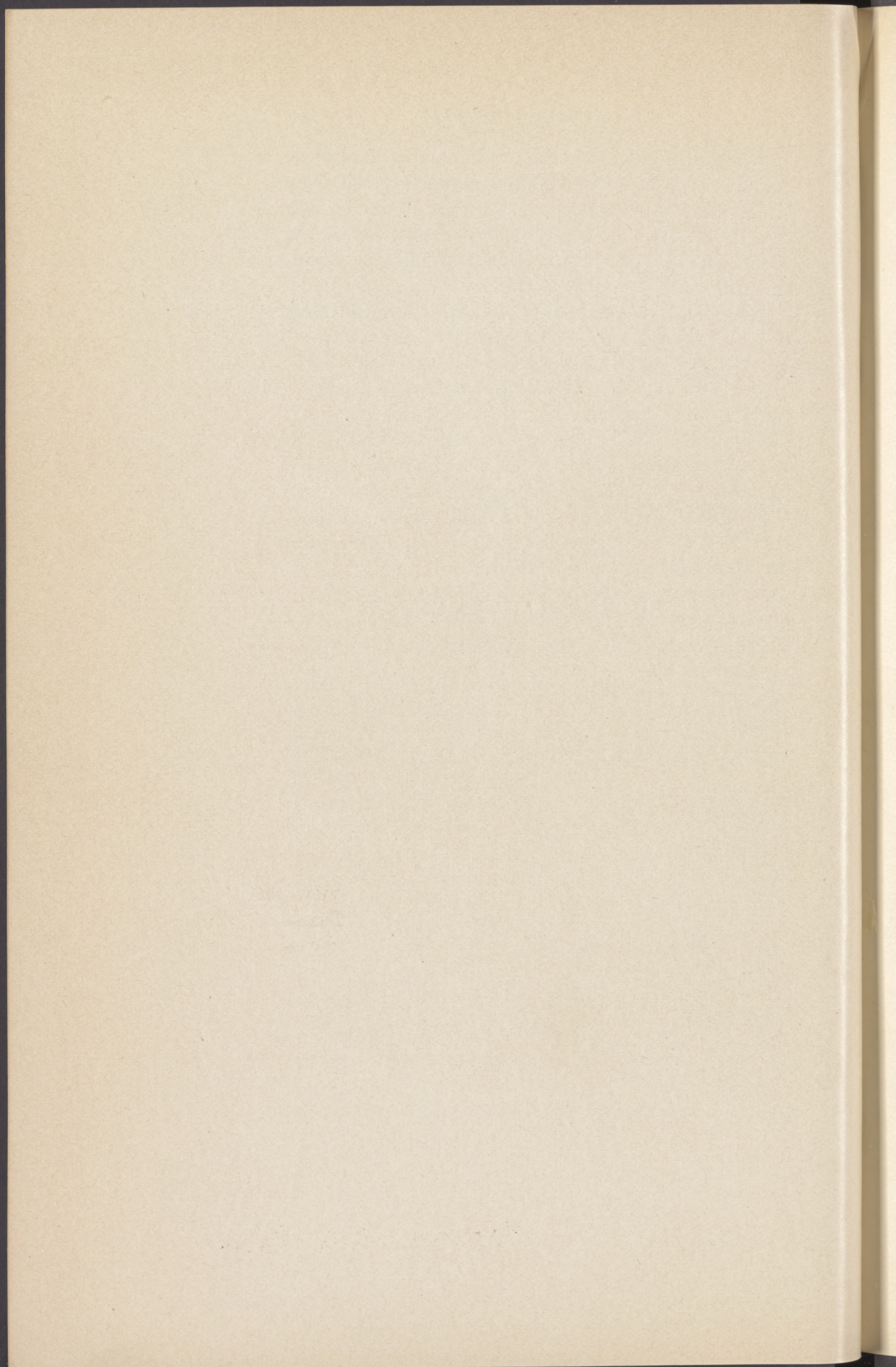
(Filed January 3, 1931)

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The above-entitled cause having been regularly brought on for consideration and determination at the October, 1930, term of this Court, and the Court having inspected the transcript and proceedings returned with the *certiorari* in this cause, the reasons for error assigned, and having heard the argument of counsel thereon, and maturely considered the same, do order that the judgment of the State Board of Taxes and Assessments, reviewing an order of the Mercer County Board of Taxation, which said judgment of the State Board restores an assessment of taxes levied by the City of Trenton upon the lands and buildings of the Trenton Masonic Temple Association in said city, be affirmed, with costs.

On motion of

CHAS. E. BIRD,
Attorney.



Kirkham & Guthrie, Printers, Trenton, N. J.

New Jersey Court of Errors and Appeals

THE CITY OF TRENTON,	}	
<i>Respondent,</i>		
<i>v.</i>		
TRENTON MASONIC TEMPLE ASSOCIATION,	}	On Appeal.
<i>Appellant.</i>		

BRIEF FOR RESPONDENT

The property of the appellant was assessed for taxes by the Taxing District of the City of Trenton for the year 1929, from which assessment it appealed to the Mercer County Board of Taxation, on the ground that such property was immune from taxation by reason of the General Tax Act of 1918, as amended by Chapter 338 of the Laws of 1927. The County Board determined that such property was exempt and set aside and canceled the assessment. On appeal to the State Board of Taxation the property was held not to be immune from taxation, and the action of the County Board was reversed and the assessment restored. On *certiorari* to the Supreme Court the judgment of the State Board was affirmed.

THE APPELLANT IS NOT ENTITLED TO
IMMUNITY FROM TAXATION.

Tax exemptions are not favored and must be given the most rigid admissible construction. Trustees v. Paterson, 61 N. J. L. 420; Cooper Hospital v. Camden, 70 N. J. L. 478.

In Board of Trustees, &c., Blair Academy v. State Board, &c., 6 N. J. Mis. R. 498, the Supreme Court held:

“It is entirely settled to claim exemption the facts must clearly bring the case within the terms of the statute. Nothing can be left to implication. A statute granting immunity from taxation must be strictly construed.”

And in Sisters of Charity v. Cory, 73 N. J. L. 699, Gummere, Chief Justice, speaking for the Court of Errors and Appeals (at p. 706) said:

“As this case must go back to the Supreme Court, to be there dealt with along the lines indicated in this opinion, we deem it advisable to point out an inaccuracy which appears in our earlier decision in the statement, *obiter*, of a principle of the law of taxation, particularly in view of the fact that the same statement is again made (*obiter*) in the later opinion of this court, rendered in the case of Children’s Seashore House v. Atlantic City, 39 Vroom 385. The statement referred to appears at the end of the excerpt which has been cited herein, and is that ‘this section of the statute relating to taxation should be construed, not narrowly by its letter, but liberally, and in view of its object and spirit.’ The true rule upon this subject is accurately stated in 12 Am. & Eng. Encycl. L. (2d. ed.) 302, as follows: ‘A grant of exemption from taxation, being in the nature of a renunciation of sovereignty (or, as some jurists have expressed it, being in derogation of the sovereign authority and of common right), must invariably be construed most strictly against the grantee, and can never be permitted to extend, either in scope or duration,

beyond what the terms of the concession clearly require.' It has been declared and applied, not only by the United States Supreme Court, but by the courts of almost every state in the union, as will appear by a reference to the foot note in the American and English Encyclopedia of Law, which contains a citation of the decisions. We ourselves had declared this to be the true rule of construction prior to the promulgation of the decision in the Chatham case. *Nevin v. Krollman, Collector*, 9 Vroom 574; *State Board v. Morris and Essex Railroad Co.*, 20 Id. 193; *State Board v. Paterson, &c., Railroad Co.*, 21 Id. 446. The fact that the property involved in the present litigation is owned by a charitable organization and is devoted to charitable uses, affords no ground for excluding it from the operation of this rule."

The certificate of incorporation of the appellant sets forth the objects of its organization. (Case, p. 7, line 17.)

"Through its Board of Trustees, who are members of and selected by the member associations (Masonic Lodges), it takes care of the building, pays the expenses thereof and arranges for the use of the building by the various associations and the members thereof. No other business is transacted by the corporation." (Case, line 10, p. 17.)

It is clear that the appellant itself does not use the building to which it holds the legal title, and against which the tax was assessed, for the moral and mental improvement of men, or for a religious or charitable purpose.

The State Board determined that the "Trenton Masonic Temple Association" was not organized for any purpose for which an exemption may be allowed. That body did not determine the character of the uses made of the building held by the appellant because, in the circumstances, such a determination was unimportant and unnecessary under the decisions of the courts of this state.

The right to exemption is claimed upon the ground that the building is used by the member associations (Masonic Lodges) which are in themselves said to be charitable in

nature, but they neither own the building nor are they organized under the laws of this state for a purpose for which an exemption may be granted and are not parties to the record.

"An association for the purposes of mutual benevolence among its members is not an association for charitable uses." Thomson's Executors v. Norris, 20 N. J. Eq. 524, citing Babb v. Reed, 5 Rawle 151.

There is nothing in the evidence to show that the appellant is organized for any purpose considered charitable at the common law. The twenty-one cases enumerated in the statute, 43 Eliz, and others constructively within it, are of a public nature, tending to the benefit and relief, in some form or other, to the community at large, and not restricted to the mutual aid of a few.

The fundamental purpose of the Masonic Order is a fraternal purpose, the main object of which is mutual benevolence among its members. The fact that it performs a useful and benevolent service does not suffice to bring it within the purview of the exempting provisions of the Tax Act.

The closest scrutiny of the testimony adduced in the case fails to disclose anything which shows that the order is formed for a charitable purpose. Mr. Justice Dixon, in Trustees v. Patterson (supra), said:

"We must bear in mind that the word 'charitable,' like most other words, is capable of different significations. In the law relating to 'charitable uses' it has a very wide meaning, resulting from the desire of courts to support gifts which are prompted by a benevolent disposition. In this sense, a trust for founding a Young Men's Christian Association was deemed charitable in Goodell v. Union Association, 2 Stew. Eq. 32, and the term includes religious, educational and various other useful objects, although not all which are benevolent. Thomson's Executors v. Norris, 5 C. E. Gr. 489.

"That the word has not so broad a meaning in the statute we are now considering is indicated by the statute itself, since it separately specifies for exemption many institutions which in this view are 'charitable,'

and would have been appropriately embraced in so general a term. But a stronger reason is found in the rule that in all statutes exempting private property from taxation, words descriptive of the property must receive the narrowest interpretation of which they are reasonably capable. So interpreted, charitable purposes are eleemosynary purposes—purposes connected with the distribution of charity, *i. e.*, of aid to the needy.”

The word “fraternal” must receive a like construction. It goes without saying, of course, that a fraternal purpose is not recognized in the statute as a ground for immunity.

It is a matter of common knowledge, and the testimony adduced in this case shows (Case, pp. 24-25) that the Masonic Order is a secret fraternal society. This gives rise to a fair inference that the body is also essentially social in character. *Washington Camp v. Board of Equalization of Taxes*, 87 N. J. L. 53-55.

It is plain that the fraternal purpose of the member associations exists, and that such purpose is their basic or fundamental purpose; that the meetings of such organizations are secret, and that the individual members thereof use and enjoy the greater part of the building for social and recreational purposes.

In order to entitle the appellant to an exemption from the payment of taxes on its property under the statute, it must clearly appear that the prosecutor fundamentally comes within the class of subjects enumerated therein, and is using and occupying such property exclusively for a purpose for which an exemption may be granted. *Carteret Academy v. Orange*, 98 N. J. L. 868. It nowhere appears to be fundamentally educational or charitable in its purpose.

It is claimed by the corporate owner that the premises in question are merely held by it in trust for the use and benefit of the member associations and that the court should therefore disregard the doctrine of a corporate entity distinct from the individual members who compose it, and look through the corporation to the members behind it. To do this will avail the appellant nothing, however, for the rea-

son that none of the members is entitled to the immunity claimed.

We insist that the question here presented should be determined by the application of strict legal principles alone.

In *Perth Amboy v. Ramsey*, 60 N. J. L. 1-3, Beasley, Chief Justice, speaking for the Supreme Court said:

“At law, the equitable title passes for nothing. So completely is this the case that the trustees having the legal title can maintain ejectment against his own *cestui que trust*, who has the equitable right of possession, and the latter, if he would protect his right, must have recourse to an injunction in equity * * *. The plain reason for this is that it is the province of a court of equity, and not of a purely legal tribunal, to construe the instrument creating the limitation in trust.”

The courts, in many cases, it is true, have disregarded the theory of “legal entity,” but these decisions, in the last analysis, indicate perhaps not so much a disregard of the rule of corporate entity as a sane and rational application of that rule in adjusting it to modern economic and social conditions in the public interest. These cases are not applicable to this case.

“A corporation is a reality as truly as is an army, a class in a college, or any other collective unit. Whatever of fiction or of ‘paper’ existence is involved in the corporate concept is found in the law’s endowment of the corporation with legal personality. That is, the law authorizes the corporation to act as though it were a person—which it assuredly is not—except in contemplation of law. Only in this respect is there anything of fiction.”

It remained for Mr. Justice Holmes, with his characteristic facility of apt expression, to describe a corporation as a “nonconductor.” The part of the opinion in the case we here quote is strongly in point.

In *Klein v. Board of Tax Sup’rs. of Jefferson County, Ky.*, Vol. 51, No. 1, Supreme Court Reporter (December 1st, 1930), speaking for the United States Supreme Court, he said:

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“But it leads nowhere to call a corporation a fiction. If it is a fiction it is a fiction created by law with intent that it should be acted upon as if true. The corporation is a person and its ownership is a nonconductor that makes it impossible to attribute an interest in the property to its members. *Donnell v. Herring-Hall-Marvin Safe Company*, 208 U. S. 267, 273; 28 S. Ct. 288; 52 L. Ed. 481.”

That case was before the United States Supreme Court on application of Klein, for himself and others, to the Board of Tax Supervisors of Jefferson County, Ky., for relief from a tax assessment.

The member associations, no doubt, are interested in the property of the appellant; but in no legal sense are such members the owners. *Queen v. Arnaud*, 9 Queen's Bench, 806.

In *Mausoleum Builders v. State Board of Taxes, &c.*, 90 N. J. L. 163, Gummere, Chief Justice, speaking for the Court of Errors and Appeals, said:

“It is to be borne in mind that a grant of exemption from taxation, even though made in respect to some particular property, is a personal privilege conferred upon the grantee.”

It seems clear that the appellant can make no valid claim to immunity because of any right thereto which may be in the so-called member associations, or any one of them, assuming such right to exist.

THE EXEMPTION WOULD NOT OCCUR IF ANY ONE
OF THE MEMBER ASSOCIATIONS OWNED AND
OCCUPIED THE WHOLE BUILDING.

The Supreme Court, in its opinion filed in this cause, said, among other things:

“If any one of the masonic organizations owned and occupied the whole building the exemption would occur.”

We respectfully submit that such conclusion is erroneous. The controlling part of the statute which has application, reads as follows:

“All buildings *actually and exclusively* used in the work of associations and corporations organized *exclusively* for the moral and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one or more of such purposes. * * * Provided, * * * that the foregoing exemptions shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is *incorporated or organized under the laws of this state and authorized* to carry out the purposes on account of which such exemption is claimed.”

The several Masonic bodies referred to as “member associations” are admittedly unincorporated associations (Case, p. 13), and the State Board so found as a fact. Only bodies *incorporated or organized under the laws of this state* are entitled to a grant of exemption from taxation under the statute pertinent to the claim made on this appeal. This construction is supported by both reason and public policy.

The member associations as unincorporated bodies, may do anything by agreement among themselves which is not unlawful. If incorporated, on the other hand, they could not lawfully exercise any powers, save those expressly conferred upon them or be reasonably implied from the powers conferred, and such powers could not be enlarged without the consent of the state.

Furthermore, if such associations were incorporated or organized under the laws of this state for a specific purpose, for which an exemption from taxation is allowed, they would be subject to the control of the courts of the state, upon the intervention of the attorney-general, if acting in excess or disregard of their corporate powers, or in the event of failure to carry out the purpose for which the exemption is allowed.

In *Carteret Academy v. State Board, &c.*, 102 N. J. L. 525-528, it was held:

“Exemptions from the burden of taxation * * * are only favored in legislation, upon the theory that the concession is due as a *quid pro quo* for the performance of a service essentially public.”

It thus appears by the declaration of the Supreme Court that the legislature had clear and abundant reason for confining the exemption to corporations and associations which are subject to the control of the state through the office of the attorney-general, because of the public nature of the service to be rendered in return for the privilege granted.

It may well be that the reasons that moved the legislature to restrict the privilege to such corporations and organizations are the same considerations that moved the member associations to remain unincorporated bodies.

In the present situation, while the courts of the state have a large measure of control over the appellant, they have little or no control over or right of interference with the affairs of the member associations.

“It is obvious that a corporation is bound by the laws of the state relative to corporations, which do not relate to and are in nowise controlling upon associations.”
Great Council, &c., v. Mohican Tribe, &c., 92 N. J. Eq. 593-600.

And this court held in *Pierson v. Gardner*, 81 N. J. Eq. 505-510, that an association which was entirely voluntary suffered radical change by an act of incorporation. As the court said: “It thereby became an entirely different legal entity.”

IN CONCLUSION.

“However we might feel predisposed to favor the claim for exemption in this case, we cannot but be mindful of the fact that our solution of the inquiry is not at all fancy free, but that our judgment must be guided and controlled upon the principle of *stare decisis* * * *.”
Longport v. Bamberger Seashore Home, 91 N. J. L. 330.

We call the court's attention to the well-considered memorandum filed by the State Board of Taxes and Assessment in this matter, which will be found commencing on page 53 of the Case.

We respectfully submit that the judgment of the Supreme Court should be affirmed and the assessment of the property of the appellant sustained.

ROMULUS P. RIMO,
CHARLES E. BIRD,
Counsel for Respondent.

NEW JERSEY
Court of Errors and Appeals

CITY OF TRENTON,
Defendant,
vs.
TRENTON MASONIC TEMPLE AS-
SOCIATION,
Appellant.

BRIEF FOR APPELLANT

The general question is whether or not the Masonic Temple property of Trenton, N. J., is liable for taxes under paragraph 4, section 203 of the amendment of the act for assessment and collection of taxes, Chap. 338, Pamphlet Laws 1927, p. 791. In 1928 the Masonic Temple property was assessed by the City of Trenton in the amount of \$16,603.75 for taxes, and on appeal to the County Board the assessment was annulled as being an association entitled to the exemption. On appeal by Trenton to the State Board, that board held that the corporate association was not organized exclusively for the mental and moral improvement of men, women and children or for charitable purposes, but that it was a business corporation. The judgment of the Board was brought by certiorari into the Supreme Court and that court affirmed the action of the State Board.

The appellant is a corporation organized by the several Masonic associations of Trenton pursuant to "An act to incorporate associations not for pecuniary profit," ap-

proved April 1, 1898, 1st C. S., p. 125 amended by act of 1914, p. 152 (1 Cum. Supp., p. 94). The charter recites that the several Masonic lodges of Trenton realize the necessity for suitable accommodations for the Masonic fraternity in Trenton and thereby associated themselves into an association for the purpose amongst others "to purchase a site and erect, maintain and operate a Masonic Temple in the City of Trenton for the use and accommodation of the several Masonic bodies hereinafter mentioned and any other Masonic body admitted for fraternal and charitable purposes." It further recites that each member association shall elect a member to represent it at the annual meetings and might instruct its representative for whom he shall vote as the choice of his lodge at such annual meeting and that one member from each of the Masonic bodies should be elected as a trustee of the association; that if the association shall be dissolved, its charter forfeited or its existence terminated, title to all the property, real and personal, shall vest immediately in the Masonic bodies above named, share and share alike. The land was purchased and the Masonic Temple erected thereon and was financed by the individual members of the fraternity donating money for life and receiving in return bonds by which the Masonic Temple Association was to pay the principal upon the death of the contributor if sufficient money was in the Mortuary Fund, that the individual member associations from time to time contributed sums which are set aside for their payment; that a mortgage was also placed upon the property—the contributions not being sufficient; the interest thereon is to be paid proportionately by the various member associations.

The exemption was claimed under the provision of the statute as follows:

"All buildings actually and exclusively used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, or for religious, char-

itable or hospital purposes, or for one or more of such purposes, * * * Provided, * * * that the foregoing exemptions shall apply only where the associations, corporation or institutions claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which such exemption is claimed."

The Supreme Court found that the property was actually and exclusively used in the work of the twelve Masonic lodges organized exclusively for the mental and moral improvement of men, women and children, and that no part of the building had been rented at any time; that no profit of any kind had been made from the property, and that the Temple in Trenton was used exclusively by the incorporating associations or lodges. The Supreme Court further said, "If any one of the Masonic organizations would own and occupy the whole building the exemption would occur."

The adjudicated facts are binding upon this court.

The Certiorari Act, 1 Comp. Stat., p. 405, sec. 11, provides that in all cases brought to review any tax or assessment * * * the court shall determine disputed questions of fact as well as of law.

In *Gibbs vs. State Board of Taxation*, 101 N. J. L. 371, Mr. Justice Katzenbach stated that under section 11 of the Certiorari Act, Comp. Stat., p. 405, power is given to the Supreme Court to determine disputed questions of fact as well as law.

The Supreme Court held that the corporate owner was not organized exclusively for the moral and mental improvement of men, women and children, but that it was organized for the purpose of affording accommodations for the several Masonic Lodges, it was not within the terms of the statutory requirements.

The question therefore is narrowed down as to whether or not the Masonic Temple Association which claims the exemption owns the property in question and is incorporated under the laws of this State and authorized to carry out the purposes on account of which such exemption is claimed.

The corporate qualification of the owner first appeared in legislation in 1918, and was the only novel feature in that section. Before that addition, it was no concern of the State whether the owner was a resident or non-resident, corporate or non-corporate.

Denville Twp. vs. St. Francis Sanatorium, 89 N. J. L., 293-295, 6 and 7, and cases cited.

The statutory qualifications of the owner are: (a) that the owner claiming the exemption owns the property; (b) that it is incorporated or organized under the laws of this State; (c) that it is authorized to carry out the purpose on account of which the exemption is claimed.

A. The corporation owns the property in question. See State of Case, pages 33 to 52, inclusive.

B. That the Masonic Temple Association is incorporated is attested by its certificate of incorporation found on pp. 6, 7 and 8 (State of Case). The incorporators are the twelve Masonic Associations or lodges of Trenton. The statute under which the Masonic Temple Association is organized is an act to incorporate associations not for pecuniary profit.

See 1, C. S., p. 125; 1 Cum. Supp., p. 94.

See also *Great Council vs. Mohican Tribe*, 92, N. J. Eq., 593.

C. The association is authorized expressly to carry out the purposes on account of which the exemption is claimed, p. 6, &c. (State of Case). The certificate recites, p. 7, line 1, that the several incorporating lodges,

realizing the necessity for suitable accommodations in Trenton, associated themselves into a corporation for the purpose, among others, "to purchase a site, erect, maintain and operate a Masonic Temple in Trenton for the use and accommodation of the several Masonic bodies for fraternal and charitable purposes." The statute privileges the corporation to be exempt for the land and the building devoted to the purposes specified in the statute and to no other purpose, and which do not exceed five acres in extent. It also recites that this land is to be held for the use and accommodation of these several Masonic members "for fraternal and charitable purposes." The fact that these several Masonic associations are organized exclusively *for the mental and moral improvement of men, women and children* and that these associations use these lands and buildings in their work exclusively is adjudicated by the Supreme Court. The charter dedicates the Temple to that purpose. Fraternal in the certificate means Masonic purposes. The charter speaks of the Masonic Fraternity. Fraternal is a word of general import. A fraternal purpose, according to the Century Dictionary means promoting brotherly feelings among those engaged in working together to promote some worthy object.

In *National Union vs. Marlow*, 74 F. 775 at 778, it is said

"Mutual interest and affection is characteristic of fraternal relation. Men working together in brotherly union not for profit."

In *Mason Tire & Rubber Co.*, 11F. (2d), 556, it is said

"An organization organized for some worthy object especially for the benefit of the membership and men in general is a fraternal organization in the popular acceptance of the term."

The purpose of the incorporators may be manifested by what they have done under the certificate of incorporation.

People vs. Merchants Protective Corp., 189 Cal., 531,

“The court would be entitled to look to the acts of the defendant under its charter as originally framed and as thus amended, and to determine therefrom what its own interpretation of its charter and powers might be.”

The word fraternal means precisely the purposes for which the Masonic associations of Trenton are organized, *which is for the mental and moral improvement of men, women and children.* In *Thompson vs. Norris*, 20, N. J. Eq., 489, the dominant question was what was the meaning of the word “benevolent” when used in connection with charitable in a bequest “to benevolent, religious or charitable institutions” and it was argued that the word institution carried with it the meaning of charitable purposes only. See the argument of counsel at p. 496. Chief Justice Beasley, speaking for this court, at p. 524 said, “upon the argument, the counsel for the respondent laid some stress on the use of the word ‘institution.’ An institution is a mere organism for the accomplishment of an object, and the existence of such an organism can not, in the nature of things, make such object definite. To make the argument of any value, it should appear that the class of benevolent purposes which are not comprehended in the definition of legal charities are not and can not be executed by institution, that is, an association of persons. I think the word in question does not restrict the meaning of the word benevolent,” and, therefore, he held that the words charitable and benevolent were not synonymously used in this will. One of an obverse line of cases is *Decamp vs. Dobbins*, 31 N. J. Eq., 671, where the question was again as to the meaning of the word “benevolent” when used conjunctively with charitable. The will created a trust to a

church to "aid the missionary, educational and benevolent enterprises to which the church is in the habit of contributing", and it was shown that the enterprises referred to were legal charities and it was held that the word benevolent could not have a signification wider than the word charitable. The Chief Justice at p. 694, said "that a donation in general terms to a corporation will be valid as the law will infer that the purpose of the donor was lawful and that it was his intention that his gift should be appropriated to some of the legitimate uses." These Masonic associations being organized for specific purposes, the Courts will infer that they will use the lands and buildings for those purposes.

The Chief Justice said, at p. 696:

"The fund is not to be used to aid any benevolent enterprise, but only benevolent enterprises of a certain defined character, and they are charities. The word 'benevolent' is thus, by the context and the subject matter, cut down into legal dimensions."

The word "fraternal" is thus, by the context and subject matter, cut down to the purposes of the Masonic member associations.

The evidence shows that these Masonic associations are in possession of the property as members of the corporate owner and in *State vs. Standard Oil Company*, 49 Ohio St. 137, it is stated:

"The fact must be constantly kept in mind that the metaphysical entity has no thought or will of its own; that every act ascribed to it emanates from and is the act of the individuals personated by it; and that it can no more do an act, or refrain from doing it, contrary to the will of these natural persons, than a house can be said to act independently of the will of its owner; and, where an act is ascribed to it, it must be understood to be the act of the persons associated as a corporation, and whether

done in their capacity as incorporators or as individuals, must be determined by the nature and tendency of the act."

Clark on Corporation (3d. Ed.), p. 10, says :

"The legal conception of a corporation distinct from its members has often been regarded as a mere fiction adopted by the law for the purpose of enabling natural persons to transact business in this peculiar way; whenever it is necessary to do so, the law will look behind the corporate body and recognize the members and disregard the fiction."

Marshall on Corporations, p. 16, says :

"In reality a corporation is an association of individuals, and the fiction will be disregarded, and this fact, recognized by the courts, whenever the fiction is urged to an intent and purpose which is not within its reason and policy."

The certificate of incorporation further manifests that the corporate association holds these lands as a trustee to permit the Masonic associations to use the property in their work. The charter contemplates that the objects of these associations are to be accomplished through the instrumentality of the corporate owner.

See *Montgomery vs. Wyman*, 130, Ill., 72.

And that these *cestui qui* trusts are to all practical intents and purposes the beneficial owners of the property. The title held by the corporate owner is similar to the title held by religious corporations.

See *Page vs. Asbury M. E. Church*, 78, N. J. Eq., 114.

Ever vs. First Presbyterian Church, 53, N. J. Eq., 500.

Barna vs. Visecow, 71 N. J. Eq., 196.

It is the duty of the trustee, by statute, to claim the exemption.

Article 4, 2 Cum. Stat., p. 3492, provides as follows :

“Property held in trust shall be assessed in the name of one or more of the trustees as such, separate from his individual assessment.”

37 Cyc., p. 793, says,

“Real or personal property held under a testamentary or other trust is ordinarily taxable to the trustee, as he has possession and control of it, and in this way the tax will ultimately be made to fall upon the beneficial owner.”

39 Cyc., p. 337, says,

“It is the duty of a trustee to pay all taxes assessed on the trust estate, and, after he has paid them, he is entitled to credit therefor and reimbursement, in case he has made payment out of his own funds.”

We, therefore, submit that by a fair construction of the charter this corporate association is organized exclusively for the mental and moral uplift of men, women and children, to be worked out through the members association of its corporate body, and while we insist that this corporation is organized exclusively for the purpose of the mental and moral uplift of men, women and children, nevertheless, we respectfully submit that the statute does not require it to be *exclusively* so organized, and that on either construction this Masonic organization is entitled to be exempt from taxation. We submit that the criticism of the State Board is not warranted in holding that this association is a business corporation.

The Supreme Court in *Trinidad vs. Sagrada Orden*, 263 U. S. 578 at 581, says :

“Such activities cannot be carried on without money; and it is common knowledge that they are largely carried on with income received from properties dedicated to their pursuit. This is particularly true of many charitable, scientific and educational corporations and is measurably true of some religious corporations. Making such properties productive to the end that the income may be thus used does not alter or enlarge the purposes for which the corporation is created and conducted.”

University vs. People, 99, U. S., 309, 324.

“The purpose of a college or a university is to give youth education. The money which comes from the sale or rent of land dedicated to that object aids this purpose. Lands so held and leased is held for school purposes, in the fullest and clearest sense.

Methodist Episcopal Church, South, vs. Hinton, 92, Tenn. 188, 200.

“And in our opinion the excepting clause taken according to its letter and spirit, proceeds on this view of the subject. * * * In using the properties to produce the income, it therefore is adhering to and advancing those purposes and not stepping aside from them or engaging in a business pursuit.”

In the brief for the respondent, p. 8, it is stated that the several Masonic bodies referred to as “member associations” are admittedly unincorporated associations, and the State Board found as a fact that only bodies incorporate or organized under the laws of this State are entitled to be granted an exemption from taxation. We submit that this is an erroneous conception of the statute. Since 1903 property in the occupancy of unincorporated charitable associations which were carrying on exclusively charitable work thereon have been exempted from tax-

ation regardless of the residency or incorporation of the owner of the property. It is declared in *Litz vs. Johnston*, 65, N. J. L., 169, that "the fact that the legal title to the land so devoted to charitable purposes is in a trustee and that the *cestui qui* trust is a corporation of a sister State do not militate against the exemption."

We submit an opinion by the late Judge Jess, while President of the State Board, upon a case on all fours with the one *sub judice*:

"The Masonic Association, the appellant in this case, is the owner of a building situate in the City of Camden and known as the Masonic Temple. This association is incorporated under the general corporation laws of New Jersey with an authorized capital stock of \$125,000. The capital stock is divided into founders' shares and ordinary common stock. There are eight founders' shares, each of which is held by an equal number of Masonic bodies and gives to each an equal vote in the election of directors. These also hold among them all of the common stock with the exception of twenty-four (24) shares which are distributed among that number of persons for the purpose of qualifying them as directors of the association. The Masonic bodies which own all the stock of the corporation, with the exception noted, use the building as a place in which to hold their meetings and practice the rites peculiar to the fraternity of which they are a part. To each of these bodies annually is apportioned, as a sort of rent, a share of the cost of maintaining the building. This cost amounted last year to \$5,469, including the compensation paid to the janitor. No other wages or salary of any kind is paid to any officer of the corporation or to any other person in connection with the use of the building. No rental is paid by any of the Masonic bodies, except that which represents their proportion of the expense of upkeep and maintenance. The

Masonic Association has an office in the building in which the directors meet.

"The appellant claims exemption from taxation on the ground that it is within the purview of subdivision 4, section 3, of the General Tax Act, as amended by P. L. 1913, p. 570. The particular clause of the statute upon which the appellant relies exempts 'all buildings actually used for * * * associations and corporations organized exclusively for the moral and mental improvement of men or women,' together with the land whereon the same are situated necessary to the fair use and employment thereof, not exceeding five acres in extent for each.

"The theory upon which counsel pressed the appeal was that the Masonic Association has a bare legal title to the property, that the equitable owners are the eight Masonic bodies using the building, and that those bodies are organized exclusively for the moral and mental improvement of men. Witnesses were produced and documentary evidence submitted for the purpose of proving that the associations in question were organized exclusively to improve men morally and mentally.

"The evidence upon this point was explicit and uncontradicted, and we are bound to find that the associations using the building under consideration meet the requirement of the statute. The property therefore is entitled to exemption unless it is conducted for profit. That the building is not conducted for profit and that in fact no profit is realized from it, was conclusively established by the appellant. Indeed, the City did not attempt to combat that contention. The scheme of ownership and use practically precludes the possibility of profit or the conduct of the building as a commercial enterprise. If, for example, such a rent were charged to the users of the building as would yield a revenue in excess of the upkeep and maintenance, the profit

would be artificial rather than actual, since it would be paid by the same bodies that received it. The result would be a mere transference from one pocket to the other.

“In connection with this phase of the question we have also considered the applicability of that clause of section 3 of the Tax Act which provides that no building which may be hired for rental paid to a landlord shall be exempt. This provision clearly was intended to prevent the exemption of property from which the owner receives an income or profit. In the present case there is no analogy in the relationship which exists between the legal owner of the building and its users to the relationship which exists between an ordinary landlord and his tenants. The element of private gain or investment advantage is entirely lacking. The facts which we already have pointed out make this perfectly plain.

“It is well settled that the use rather than the ownership of a building is the test of exemption.

“The corporation which owns the Masonic Temple is concededly not organized for any purpose which would entitle the property to exemption. This corporation, however, is merely a convenient legal entity in which to vest the title to the building, and its existence in no way affects or modifies the test of use which we must apply in deciding the question of exemption. If the legal owner used the building for the purposes inconsistent with the purposes for which it is used by the equitable owners, we should have no difficulty in denying the exemption. There is, however, practically no use of the building except for the associations for whose use it was erected. It is true that the directors of the corporate owner meet in the building, but their meetings are incidental to and not inconsistent with the general scheme by which the building is made to serve the purpose of the association for whose use it was erected and

is maintained. This use entitled it to the exemption claimed.

“The assessment should be set aside.”

See also *Denville Twp. vs. St. Francis Sanatorium*, *supra*.

Congregation of St. Vincent de Paul vs. Brakeley, 67 N. J. L. 176.

Bancroft vs. Magill, 69, *Id.*, 589.

Litz vs. Johnston, 65, N. J. L., 169.

We claim that the statute authorizes unincorporated associations organized for purposes within the statute exclusively to use the building, and that the statute does not require the corporate owner to use the building.

The State Board said, p. 55, that the exemption was claimed on the ground that the building was actually and exclusively used in the work of Masonic bodies but that they neither owned the building nor are they organized under the laws of the State of New Jersey for a purpose for which the exemption may be granted, that they are not parties to the record and, of course, are not claiming the exemption, and the respondent in his brief, p. 8, says that only bodies incorporated or organized under the laws of this State are entitled to the exemption. We submit that that conception of the statute is erroneous. The statute says, “buildings actually and exclusively used in the work of associations and corporations organized exclusively for the mental and moral improvement of men.”

The term “association” imports as 5 C. J., p. 1334, says, “a different and distinct conception from the term ‘incorporation’ and is generally used to denote an unincorporated society.” The term “association” is frequently found in the statutes of the United States. The Supreme Court of the United States, in *Hecht vs. Malley*, 265 U. S. 144 at 157, said,

“The word ‘association’ has been used throughout the United States to signify a body of persons

united without a charter but upon methods and forms used by incorporated bodies for the prosecution of some common enterprise."

Citing cases.

Other definitions are: "In the United States, as distinguished from a corporation, a body of persons organized, for the prosecution of some purpose, without a charter, but having the general form and mode of procedure of a corporation."

Webster's New International Dictionary, "(U. S.) An organized but unchartered body analogous to but distinguished from a corporation."

Hecht vs. Malley supra, at 150 construed the phrases "Associations organized in the United States or any State or Territory" and "Associations organized under the laws of the United States or of any State or Territory" and differentiated between the two phrases. It said, "The description of the corporation or joint stock association as one organized under the laws of a State at once suggests that they are such as are the creation of statutory law, from which they derive their powers and are qualified to carry on their operations. That they derive from that source some quality or benefit not existing at the common law."

We respectfully submit that the State Board and Supreme Court erred in their construction of the statute that the owner must be exclusively organized for charitable purposes and that the possession of business powers deprives the charitable organization of its right to exemption. Numerous charitable corporations in New Jersey have those powers, see *Cooper Hospital vs. Camden*, 70 N. J. L. 478. This construction of the statute will affect all charitable organizations in the State of New Jersey and raise an important question outside of the questions involved in this particular case. We respectfully submit further that the judgment of the Su-

preme Court should be reversed to the end that the appellant association be relieved of this assessment.

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