

In People ex - rel Young Men's Ass'n vs Sayles 32 App. Div 197 ( affirmed by the Court of Appeals in 157 N. Y. 677 ) a building was owned by the corporation organized exclusively for promoting and carrying out benevolent and charitable purposes. In addition to the part of the building used **directly** for these purposes, part of the building consisting of a theatre and a hall for public meetings exhibitions and entertainments was leased out from time to time and the income thus derived was exclusively devoted to the benevolent purposes of the owner. The court held that only that part of the building which was exclusively used for carrying out these purposes was tax exempt and the balance of the building was subject to taxation. In the course of its opinion the Court stated :

"Undoubtedly the legislature not lacking generous sympathy for the charitable institutions of the city, felt that it was necessary to guard against abuses, and that charity itself would be the better fostered if it were not tempted to undertake other enterprises in the hope, often delusive, of expanding the charity. " (See the People ex rel Catholic Union vs Sayles. hereafter decided [Post 203]) It is the exclusive use of the real estate for carrying out thereupon one or more of the purposes of the incorporation of the relator which confers the right of exemption and any benefits accruing to it and its useful work from the income derived from others in consideration of the use of the real estate for their purposes."

In Y. W. C. A vs City of New York reported of 217 App. Div. 406 ( affirmed in Court of Appeals 245 N Y 562 ) The Court denied the right of complete exemption to a building conducted by the Y. W. C. A. known as the Laura Spelman Hall of Hudson and W. 12 St.



The building was a seven story building part of which was used as a residence for self supporting girls and part of the space was used as a cafeteria which was open to the public generally. The building also contained a lobby, office of the managing director, executive offices, recreation rooms, small parlors, and reading rooms. The entire proceeds from the operation of the cafeteria were devoted to the charitable and benevolent purposes of the association. In the course of its opinion the Court stated: " that the money so obtained was subsequently used for the accomplishing of the corporate purposes does not bring the complaintive corporation within the exemption of the statute."

The Court accordingly held that the building was only entitled to partial tax exemption, i.e. that part which was used exclusively for residence of self supporting girls from which apparently no profit was derived.

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In the matter of Syracuse Y M. C. A. Reported in 126 Misc. 431 The Court declared that part of a Y M. C. A. building which was rented out for stores and a barber shop was not exempt from taxes, although the income from these rentals was used exclusively for the charitable and benevolent purposes of the Y. M. C. A.

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In the case of Board of Foreign Missions vs Board of Assessors decided by the Court of Appeals 244 N Y 42.. a corporation organized exclusively for religious, charitable, ~~and~~ benevolent, and missionary purposes sought to gain complete tax exemption of certain properties owned by it. The property in question consisted of six



independent parcels which were, however, contiguous forming one large holding. The larger part of the property was used as a meeting place for conferences, instruction, relaxation, and education for members of the association as well as a resting place for missionaries and the families. The minor part of the property, however, was rented out and the income derived therefrom, which income was applied towards the expense of operating the mission. The persons to whom this property was rented out were in no way connected with the missionary undertaking. The Court held that only that part of the property which was actually used in connection with ~~the~~ missionary work and the purposes of the institution "was tax exempt; but that part which was rented out to strangers was not tax exempt."

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In the matter of Syracuse University 214 App. Div. 375, the University sought to have all its buildings declared tax exempt. In connection with its buildings the University operated dormitories, one of which was known as Colonial Hall/ <sup>part of which</sup> The Ground was occupied by nurses of the hospital operated by the University. Floor of this building was rented and occupied as a store from which the University derived income. This income was used for general University purposes. The Court stated in the course of its opinion that by reason of the character of the occupancy of the ground floor that Colonial Hall is not used exclusively for carrying out thereupon of one or more of the educational purposes of the University, therefore, it is exempt only to the extent of the value of the ~~portion~~ portion for carrying out thereupon such purposes.