

**THE MANILA RAILROAD COMPANY, PLAINTIFF AND APPELLEE, VS.
JAMES J. RAFFERTY, AS COLLECTOR OF INTERNAL REVENUE,
DEFENDANT AND APPELLANT.**

G.R. No. 14205. September 30, 1919

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of the city of Manila on the 20th day of December, 1916. Its purpose was to recover of the defendant the sum of P83,159.63 which the plaintiff had paid to the defendant as internal-revenue tax, under protest.

The plaintiff alleged that the said sum had been illegally assessed and collected by the defendant as internal-revenue tax during the years 1915 and 1916; that by virtue of its charter, subsection 12 of section 1, in relation with subsection 10 of Act No. 1510, it was relieved from all taxes of every name and nature—municipal, provincial or central—upon its capital stock, franchise, right of way, earnings, or other property owned or operated by it, except those mentioned in said charter (Act No. 1510); that the amount which the defendant collected and for which the present action was brought was not included as a part of the taxes which the plaintiff was required to pay under its charter. The defendant admitted that the amount collected was collected as internal-revenue tax upon certain oil and coal which the plaintiff had imported into the Philippine Islands, for its use.

All of the facts alleged by the plaintiff were, by stipulation of the parties, admitted to be true. The defendant, however, alleged as a special defense, in justification of his collection of said sum, that "during the period covered by the complaint the plaintiff imported into the Philippine Islands at various times, various quantities of coal and oil, which, by virtue of the provisions of subdivision C of section 4 of the Act of Congress of October 3, 1913, became subject, upon importation into the Philippine Islands, to the payment of the internal-revenue tax imposed by the Philippine Government upon like articles manufactured and consumed in the Philippine Islands."

Upon the issue thus presented the Honorable James A. Ostrand, judge, in a carefully prepared opinion, held that, notwithstanding the provisions of said Act of Congress invoked by the defendant, subsection 12 of section 1 of Act No. 1510 of the Philippine Legislature is in full force and effect, and, upon that theory, rendered a judgment in favor of the plaintiff and against the defendant for the sum of P83,159.63, without any finding as to costs. From that judgment the defendant appealed.

The appellant alleges that the lower court committed an error in holding that subsection 12 of section 1 of Act No. 1510 of the Philippine Legislature is still in full force and effect and in not holding that section 4, subdivision C, of the Act of Congress of October 3, 1913, did apply to coal and oil imported into the Philippine Islands by the plaintiff for the use in the operation of its lines.

On the 7th day of July, 1906, by an Act of the Philippine Legislature, a special charter was granted to the Manila Railroad Company. Subsection 12 of section 1 of said Act (No. 1510) provides that:

"In consideration of the premises and of the granting of this concession or franchise, there shall be paid by the grantee to the Philippine Government, annually, for the period of thirty (30) years from the date hereof, an amount equal to one-half (J) of one per cent of the gross earnings of the grantee in respect of the lines covered hereby for the preceding year; after said period of thirty (30) years, and for the fifty (50) years thereafter, the amount so to be paid annually shall be an amount equal to one and one-half (H) per cent of such gross earnings for the preceding year; and after such period of eighty (80) years the percentage and amount so to be paid annually by the grantee shall be fixed by the Philippine Government.

"Such annual payments, when promptly and fully made by the grantee, shall be in lieu of all taxes of every name and nature—municipal, provincial, or central—upon its capital stock, franchises, right of way, earnings, and all other property owned or operated by the grantee under this concession or franchise."

Subsection 16 of section 1 of said charter (Act No. 1510) provided that; "This franchise or concession is subject to amendment, alteration, or repeal by the Congress of the United States. * * *"

On the 5th day of August, 1909, the Congress of the United States passed an Act entitled "An Act to raise revenue for the Philippine Islands, and for other purposes." Section 24 of said Act of Congress provides:

"That in addition to the taxes imposed by this Act there shall be levied and collected on goods, wares, or merchandise when imported into the Philippine Islands from countries other than the United States the internal revenue tax imposed by the Philippine Government on like articles manufactured and consumed in the Philippine Islands or shipped thereto, for consumption therein, from the United States." (Vol. 7, Pub. Laws of the P. I., p. 416.)

On the 3d day of October, 1913, the Congress of the United States passed an Act entitled "An Act to reduce tariff duties and to provide revenues for the Government, and for other purposes." In subsection C of section IV of said Act there is found the following provision:

"That in addition to the customs taxes imposed in the Philippine Islands, there shall be levied, collected, and paid therein upon articles, goods, wares, or merchandise imported into the Philippine Islands from countries other than the United States, the internal-revenue tax imposed by the Philippine Government on like articles manufactured and consumed in the Philippine Islands or shipped thereto for consumption therein, from the United States." (Vol. 38, Pub. Laws of the U. S., p. 193.)

In pursuance of the above-quoted provisions of the said Acts of Congress, the Philippine Legislature enacted Act No. 2432 and subsequent Acts amendatory thereof and supplementary thereto, which placed an internal-revenue tax upon coal and oil imported into the Philippine Islands, and by virtue of said laws the defendant collected from the plaintiff, as internal-revenue tax upon coal and oil, the amount in question, which was paid under protest.

In view of the foregoing quoted provision of the charter of the plaintiff in relation with said Acts of Congress, the question is whether or not said Acts of Congress can be regarded as an amendment, alteration, or repeal of subsection 12, section 1, of Act No. 1510 above-quoted.

It will be noted that Act No. 1510 is a private charter granted to the plaintiff; that said Acts of Congress are general laws. A careful reading of said Acts of Congress fails to disclose any reference to, or any attempt to amend, alter, or repeal, said special charter (Act No. 1510) ; and no other Act of Congress has been called to our attention, which in any way attempts to amend, alter, or repeal said Act (No. 1510). And it must be borne in mind that said charter (Act No. 1510) is subject to amendment, alteration, or repeal only by an Act of the Congress of the United States.

In view of the foregoing facts, the question presented above may be stated more concretely: May a special law or charter be amended, altered or repealed by a general law, by implication?

That question has been answered in the negative so many times that, except for the fact that it has not been raised here before, it would scarcely be necessary to cite authorities.

Repeals of laws by implication are not favored; and the mere repugnance between two statutes should be very clear in order to warrant the court in holding that the later in time repeals the other, when it does not in terms purport to do so. (Cooley's Constitutional Limitations [6th Ed.], p. 182, and cases cited; Sutherland Stat. Construction, Vol. 1, p. 465 [2d Ed.]; Kinney vs. Mallory, 3 Ala., 626; Banks vs. Yolo County, 104 Cal., 258; People vs. Pacific Import Co., 130 Cal., 442; Reese vs. Western Union etc. Co., 123 Ind., 294; 7 L. R. A., 583; Cope vs. Cope, 137 U. S., 682.)

In the case of McKenna vs. Edmundstone (91 N. Y., 231) the court said: "It is well settled that a special and local statute, providing for a particular case or class of cases, is not repealed by a subsequent statute, general in its terms, provisions and application, unless the intent to repeal or alter is manifest, although the terms of the general act are broad enough to include the cases embraced in the special law." That rule is but the application of the larger rule that a statute is not to be deemed repealed, by implication, by a subsequent Act upon the same subject unless the two are manifestly inconsistent with, and repugnant to, each other, or unless a clear intention is disclosed on the face of the later statute to repeal the former one.

It is a canon of statutory construction that a later statute, general in its terms and not expressly repealing a prior special statute, will ordinarily not affect the special provisions of such earlier statute. (Steamboat Company vs. Collector, 18 Wall. [U. S.], 478; Cass County vs. Gillett, 100 U. S., 585; Minnesota vs. Hitchcock, 185 U. S., 373, 396.)

Where there are two statutes, the earlier special and the later general—the terms of the general broad enough to include the matter provided for in the special—the fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, one as a general law of the land, the other as the law of a particular case. (State vs. Stoll, 17 Wall. [U. S.], 425.)

Said Act No. 1510 is a charter granted to the plaintiff company by the Government of the Philippine Islands. It is in the nature of a private contract. It is not a law constituting a part of the machinery of the general government. It was adopted after careful consideration of the private rights of the plaintiff in relation with the resultant benefits to the State. It stands upon a different footing from the general law. When a charter is granted, it constitutes a certain property right. Charters or special laws, such as Act No. 1510, stand upon a different footing from general laws. Once granted, a charter becomes a private contract and cannot be altered nor amended except by consent of all concerned, unless that right is expressly reserved. (Dartmouth College vs. Woodward, 4 Wheat., 578.) The reason for the rule is clear. The Legislature, in passing a special charter, have their attention directed to the special facts and circumstances which the Act or charter is intended to meet. The Legislature consider and make provision for all the circumstances of the particular case. The Legislature having specially considered all of the facts and circumstances in the particular case in granting a special charter, it will not be considered that the Legislature, by adopting a general law containing provisions repugnant to the provisions of the charter, and without making any mention of its intention to amend or modify the charter, intended to amend, repeal, or modify the special act. (Lewis vs. Cook County, 74 Ill. App., 151; Philippine Railway Co. vs. Nolting, 34 Phil., 401.)

While the Acts of Congress referred to above contain a provision that all laws inconsistent with their provisions are repealed, yet they expressly provide that they shall not affect any accrued right The plaintiff had enjoyed the rights granted under Act No. 1510 for a number of years. Such rights were accrued rights. An examination of said Acts of Congress not only fails to disclose any express intention to amend, alter, or repeal Act No. 1510, or any of its provisions, but, upon the contrary, we find that the said Acts of Congress expressly protect all rights

theretofore accrued.

From all of the foregoing we have reached the following conclusions:

- That Act No. 1510 has not been amended, altered, or repealed by any Act of Congress;
- That the plaintiff was relieved by Act No. 1510 from the payment of the internal-revenue tax collected by the defendant in the present case;
- The amount in question was, therefore, illegally collected; and
- That the taxes in question were paid under protest.

Therefore, and for the reasons given, the judgment of the lower court is hereby affirmed, with costs. So ordered.

Arellano, C.J., Torres, Araullo, Street, and Malcolm, JJ., concur.

Judgment affirmed.

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