

It was contended by the Railway Company that the said Act of 1880 being "An act to adjust and settle finally by agreement all pending controversies between the State of Maryland and the Northern Central Railway Company," was a valid contract, and as such under the Constitution of the United States, which prohibits a State from making any law impairing the obligation of a contract, could not be put an end to or impaired by an act of the Legislature of Maryland without the consent of the company.

It was contended by the State that the Act of 1880, Chapter 16, did not constitute a contract between the said railway company and the State which was beyond the power of any subsequent Legislature to repeal or impair, because the provision in the Constitution of 1850, antedating the charter of the company (ch. 250 of 1854) provides, that all charters granted by the State may be altered or repealed, a most wise provision and one incorporated in every constitution since that time, therefore the said Railway Company in accepting the consolidation of certain railroads under ch. 250 of the Act of 1854 was presumed to know that the immunity from taxation was liable to repeal by future Legislatures.

It was further contended by the State that the Act of 1890, imposing a tax of one per centum on the gross receipts of all railroad companies, whose roads are worked by steam, incorporated by and doing business within the State, repealing all acts in conflict therewith, repealed by necessary implication Chapter 16 of the Act of 1880.

The contention of the State was thoroughly established by the decision of the Court of Appeals of Maryland and afterwards sustained by a decision of the Supreme Court of the United States. Justice White in delivering the opinion of the latter court, said that "where a legislature is inhibited by the constitution from making an irrevocable charter it cannot create a new contract and bring into being a new corporation, and yet by the charter of such corporation give rise to the irrevocable contract which the constitution absolutely prohibits."

By reason of the great importance and value to the State of this decision a brief history of the case may be given.