

File No. 36404 Continued.

is distinctly conferred. An examination of Section 239 of Article 81 indicates that the right of appeal on questions of law as there conferred only lies from orders affecting assessments to property, whether real estate or tangible or intangible personal property.

Nowhere, however, by express language or necessary implication is the right of appeal to Courts granted from the action of the State Tax Commission determining State tax on gross receipts * * *. The appeals affecting assessments arising under Section 239 are not, according to my judgment, in conflict with the appeal authorized by Section 171 to the Comptroller and Treasurer * * *."

Elaborating on that opinion, this was the ruling: Section 239 of the Act creating the Tax Commission provided in its entirety for appellate jurisdiction in the State Tax Commission to hear grievances of any taxpayer, a town, city or village, and to the Supervisors of Assessments of the Tax Commission, from any action of the County Commissioners of a county or the Appeal Tax Court of Baltimore City; by the very terms of the section, such an appeal to the Commission could only involve an assessment made against real, personal or intangible personal property by the County Commissioners or the Appeal Tax Court and could not possibly relate to any action of which the State Tax Commission had original jurisdiction, such as the calculations of a gross receipts tax. The appeal on questions of law to the Courts was clearly limited to such classes of cases reviewed by the State Tax Commission on appeal. The appeal authorized to be taken to the Tax Commission was the same appeal which was before authorized to the Baltimore City Court or the Circuit Court of the County, whose decisions on facts were final, but from which an appeal existed on a question of law. The State Tax Commission was given the same power in such a case as that before exercised by the Courts - the final decision on a question of fact - always saving to suitors an appeal on a question of law. When, therefore, Section 239 provided for appeals only on questions of law, thereby making the decisions of the Commission final on questions of fact, it only related, and could only possibly relate, to cases over which the State Tax Commission had appellate jurisdiction, viz: real, personal and intangible personal property.

There was no express repeal of Section 171 authorizing an appeal to the Comptroller and Treasurer from an original action of the State Tax Commission, and the Attorney-General ruled that there was no inconsistency between the two sections and both appeals should stand.