

File No. 36404 Continued.

It is, of course, axiomatic law that repeals by implication are never favored by the Courts, and it is only where the repugnance between earlier and later statutes is plain, unavoidable and irreconcilable that a later act will be held to repeal a former one. *M. & C. C. vs. German Amer. Ins. Co.* 132 Md. 380.

The ruling of the Attorney-General, therefore, was that an appeal as to the original action of the State Tax Commission in the gross receipts tax case existed. While an appeal as to gross receipts was authorized by Section 171 and an appeal to the Comptroller and Treasurer as to the assessment on shares is allowed by Section 165, the principles of law govern both. If the ruling of the Attorney-General is to be taken and accepted as law as to gross receipts, it must be taken and accepted as law as to assessments on shares.

I have quoted at length from the opinion of the Attorney-General. Aside from the controlling effect of that opinion on State officials, I have independently examined the question at length for the guidance of your tribunal and I have no reason to depart from it. It is, in my judgment, conclusive of the subject.

2. There remains only the question of what is said to be the arbitrary action of the Comptroller and Treasurer. The Comptroller and Treasurer was known as the State Board of Appeals. The finality of their action has already been passed upon by the Court of Appeals in *Salisbury vs. Wicomico County*, 86 Md., 621-622:

"The statute makes the decision of the board final on the question of valuation. We could not, therefore, revise its judgment in this particular, even if there were proof that a mistake had been made. * * *. It is a universal principle, that, where power or jurisdiction is delegated to any public officer or tribunal over a subject-matter, and its exercise is confided to his or their discretion; the acts so done are binding and valid as to the subject-matter; and individual rights will not be disturbed collaterally for any thing done in the exercise of that discretion within the authority and power conferred."

Considering the whole matter, therefore, I advise you that the assessment certified to the Appeal Tax Court by the State Tax Commission pursuant to the order of the Comptroller and Treasurer, is binding.

Very truly yours,

(Signed) Philip B. Perlman,
City Solicitor.