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United States Vs. Landram

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Decided On : Apr-19-1886

Appeal No. : 118 U.S. 81

Appellant : United States

Respondent : Landram

Judgement :

United States v. Landram - 118 U.S. 81 (1886)
U.S. Supreme Court United States v. Landram, 118 U.S. 81 (1886)

United States v. Landram

Submitted April 5, 1886

Decided April 19, 1886

118 U.S. 81

APPEAL FROM THE COURT OF CLAIMS

SYLLABUS

After the Act of March 1, 1870, amending the laws relating to internal revenue took effect, collectors of internal revenue were entitled to compensation as follows: (1) to salaries graded according to the amount of their annual collections, the minimum salary being $2,000 and the maximum $4,500; (2) in addition to the salary to a commission of one half of one percent on taxes or spirits collected by sales of tax paid stamps, provided the total net compensation should not be more than $4500; (3) to such further allowance as the Secretary of the Treasury might make, provided the limitation of $4,500 as the total net compensation was not exceeded.

The case is stated in the opinion of the Court. The cause was decided in the Court of Claims on the 18th of February, 1886, and at once brought here on appeal and submitted.

MR. JUSTICE WOODS delivered the opinion of the Court.

By § 2 of the Act of March 1, 1879, entitled "An act to amend the laws relating to internal revenue," c. 125, 20 Stat. 327, the 12th section of the Act of February 8, 1875, c. 36, 18 Stat. 307, was amended so as to read as follows:

"That each collector of internal revenue shall be authorized to appoint, by an instrument in writing under his hand, as many deputies as he may think proper, to be compensated for their services by such allowances as shall be made by the Secretary of the Treasury upon the recommendation of the Commissioner of Internal Revenue. Allowances shall also be made in like manner for salary and office expenses of collectors, all of which shall be in lieu of the salary and commissions heretofore provided by law, *provided, however,* that the

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salaries of collectors shall be fixed at two thousand dollars each per annum where the annual collections amount to twenty-five thousand dollars or less, and shall, by the Secretary, on the recommendation of the Commissioner, be graduated up to the maximum limit of four thousand five hundred dollars, which latter sum shall be allowed in all cases where the collections amount to one million of dollars or

upward, . . . *provided* that the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, be authorized to make such further allowances, from time to time, as may be reasonable, in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, it may seem just to make such allowances; but no such allowance shall be made if more than one year has elapsed since the close of the fiscal year in which the services were rendered. But the total net compensation of a collector shall not in any case exceed four thousand five hundred dollars a year, and no collector shall be entitled to any portion of the salary pertaining to the office unless such collector shall have been confirmed by the Senate, except in cases of commissions to fill vacancies occurring during the recess of the Senate."

By § 5 of the same act, it was provided as follows:

"That section thirty-three hundred and fourteen [of the Revised Statutes shall] be amended by striking out all after said number and substituting the following:"

" The books of tax paid stamps issued to any collector shall be charged to his account at the full value of the tax on the number of gallons represented on the stamps and coupons contained in said books, and every collector shall make a monthly return to the Commissioner of Internal Revenue of all tax paid stamps issued by him to be affixed to any cask or package containing distilled spirits on which the tax has been paid, and account for the amount of the tax collected, and when the said collector returns to the Commissioner of Internal Revenue any book of marginal stubs, which it shall be his duty to do as soon as all the stamps contained in the book when issued to him have been used, and accounts for the tax on the number of gallons

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represented on the stamps and coupons that were contained in said book, there shall be allowed to the collector a commission of one-half of one percent on the amount of such tax in addition to any other commission by law allowed, *provided* that the total net compensation of collectors as fixed by this title shall not be

thereby increased."

This so-called amendment was simply a reenactment of § 3314 without any change whatever.

While these sections were in force, to-wit, during the five fiscal years beginning with July 1, 1879, and ending with June 30, 1884, William J. Landram, the appellee, was the Collector of Internal Revenue for the Eighth District of Kentucky. During that period, he received a salary as follows: for the years ending, respectively, on June 30, 1880, and June 30, 1883, $3,000 for each year; for the years ending, respectively, June 30, 1881, and June 30, 1882, $2,875 for each year, and for the year ending June 30, 1884, $4,375. During each of the years above mentioned, Landram collected a large amount of taxes on distilled spirits by the sale of tax paid stamps on which, limiting his total net compensation for each year to $4,500, the commissions for the whole five years to which he would have been entitled, on the assumption that § 3314 of the Revised Statutes still remained in force, would amount to $4,724.78. The accounting officers of the Treasury refused to allow him this sum or any part of it. He therefore brought his suit against the United States in the Court of Claims to recover it. Upon a finding of the foregoing facts, the Court of Claims gave him judgment for said sum, and the United States appealed.

The policy of allowing a commission of one-half of one percent on taxes collected from distilled spirits by the sale of tax paid stamps was begun by the Act of July 20, 1868, c. 186, 15 Stat. 125, which required that the taxes on distilled spirits should be paid by affixing to the packages in which they were contained the prescribed stamps, and "allowed a commission of one-half of one percent on the amount of the tax on spirits distilled after the passage of" that "act in addition to any other commission by law allowed, which" should "be equally divided between the collector receiving the tax and the assessor

of the district in which the distilled spirits were produced." This policy was continued by the Act of December 24, 1872, c. 13, 17 Stat. 401, which, after abolishing by § 1 the office of assessor of internal revenue, provided by § 6 that the commission of one-half of one percent allowed by the Act of July 20, 1868, to the collector and assessor should be paid to the collector, provided that "the total net compensation of collectors" should not be thereby increased. The provisions of the acts of 1868 and 1872 remained in force until June 22, 1874, when, having been embodied in § 3314 of the Revised Statutes, they were reenacted. By the Act of March 1, 1879, § 3314, though still in force, was reenacted *in totidem verbis,* and by the Act of May 28, 1880, c. 108, 21 Stat. 145, entitled "An act to amend the laws in relation to internal revenue," the same section was repeated and reenacted, word for word.

It is asserted by counsel for the appellee, and not disputed by counsel for appellant, that prior to the passage of the Act of March 1, 1879, *ubi supra,* the right of collectors of internal revenue to the one-half of one percent commissions on taxes collected on distilled spirits was never questioned. After June 22, 1874, the commissions were allowed and paid solely by virtue of the provisions of § 3314 of the Revised Statutes.

"On the passage of the Act of March 1, 1879, the right of the collectors to commissions was for the first time disputed. It seems to us clear that this right was not taken away by that act. When it was passed, § 3314 of the Revised Statutes, allowing the commissions, was in force. It was a plain unambiguous provision whose meaning had not been doubted, and which was not open to construction. Being in force, there was no reason for its reenactment by the Act of March 1, 1879, except to express in a most unmistakable manner the purpose of Congress that it should continue in force and should not be considered as in any way modified by that act. This purpose Congress reiterated by repeating and reenacting the same section in the Act of May 28, 1880. By virtue of the provisions thus enacted and reenacted, the right of the appellee to the commissions would seem to be plain. "

The only ground upon which the appellants try to escape this conclusion is by an argument which amounts to this: that Congress, by § 2 of the Act of March 1, 1879, intended virtually to repeal by implication that part of § 3314 of the Revised Statutes relating to collectors' commissions which, by § 5 of the same act, it deliberately and word for word reenacted. Conceding that this argument is entitled to any weight, it is to be noted that if the provision referred to was repealed by the same act which reenacted it, it was as an independent enactment, and, without change or qualification, again restored to the statute book by the subsequent Act of May 28, 1880, *ubi supra,* where it has remained ever since, covering more than four-fifths of the period for which the appellee claims the commissions sued for in this case.

But it is not necessary to resort to the Act of May 28, 1880, to sustain the right of the appellee to any part of his commissions. It is a settled rule of construction that "one part of a statute must be so construed by another that the whole may, if possible, stand; *ut res magis valeat quem pereat,* " 1 Bl.Com. 89, or as otherwise expressed, that every clause in a statute should have effect, and one portion should not be placed in antagonism to another. *Brooks v. Mobile School Board,* 31 Ala. 227. Applying this rule to the interpretation of §§ 2 and 5 of the Act of March 1, 1879, so far as they relate to the compensation of collectors, their meaning appears to be first that salaries shall be allowed the collectors, graded according to the amount of their annual collections, the minimum salary being $2,000 and the maximum $4,500; second, that in addition to the salary a commission of one-half of one percent on the taxes on spirits collected by sales of tax paid stamps shall be allowed collectors, provided that their total net compensation shall not be more than $4,500; and third that the Secretary of the Treasury may make further allowances, provided the limitation of $4,500 as the total net compensation of the collector is not exceeded. Thus construed, both sections of the statute are given effect without violence to the language or spirit of either. No construction of the two sections would be so incongruous and unreasonable as to hold that Congress

deliberately reenacted the provision of § 3314 allowing commissions to the collectors without meaning anything by it, for the case of the appellants cannot be sustained unless we virtually expunge from the statute book, after it had *ex industria* been put there by Congress, the provision allowing to the collectors commissions on taxes collected by the sale of tax paid spirit stamps.

Judgment affirmed.

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