June 1942

Constitutional Law--Validity of Special Legislation--Acts Authorizing Reopening of Claims under Workmen's Compensation Law

G. W. E.
West Virginia University College of Law

Follow this and additional works at: https://researchrepository.wvu.edu/wvlr

Part of the Constitutional Law Commons, and the Workers' Compensation Law Commons

Recommended Citation
Available at: https://researchrepository.wvu.edu/wvlr/vol48/iss3/11

This Recent Case Comment is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact ian.harmon@mail.wvu.edu.
CONSTITUTIONAL LAW — VALIDITY OF SPECIAL LEGISLATION — ACTS AUTHORIZING REOPENING OF CLAIMS UNDER WORKMEN’S COMPENSATION LAW.—Several coal companies filed prohibition proceedings against the compensation commissioner and certain claimants under the Workmen’s Compensation Act, contending that special legislative acts, each authorizing the reopening of an individual claim, were unconstitutional. Each of the cases had been closed under the general law. Held, that these special acts violated the constitutional provision that “... in no case shall a special act be passed where a general law would be proper and can be made applicable to the case. . . .”\(^1\) Truax-Traer Coal Co. v. Compensation Comm’r.\(^2\)

All but four states have some sort of constitutional restrictions on local and special legislation.\(^3\) One type of provision declares that a special act is prohibited in any field which is already regulated by a law general in nature and uniform in operation.\(^4\) Under such provisions the validity of special legislation, where there is a general law in existence, is naturally for judicial determination, since it depends wholly upon the meaning of the constitutional provision, the scope and effect of the general law, and the sense and proposed effect of the special act.\(^5\) The first and basic problem which must be solved depends upon the subject matter to which the special legislation is referable. It may appear that the act in question embraces conditions which are foreign to the general law in existence, or that the latter has not been so framed that it will meet the present contingency.\(^6\) The constitutionality of the special law is then assured.

Article six, section thirty-nine of the West Virginia Constitu-

\(^1\) W. Va. Const. art. VI, § 39.
\(^2\) 17 S. E. (2d) 330 (W. Va. 1941).
\(^4\) Crawford, Statutory Construction § 80. Such constitutional provisions usually provide that all laws of a general nature shall have a uniform operation everywhere within the state. They may also forbid the enactment of special laws on certain subjects. Some provide that local laws shall not be passed by indirection or by the partial repeal of a general law. It is apparent that the constitutional provisions are lacking in uniformity.
\(^6\) Tinsley v. State, 109 Ga. 822, 35 S. E. 303 (1900); State v. Anslinger, 171 Mo. 600, 71 S. W. 1041 (1902); Walsh v. Dousman, 28 Wis. 541 (1871).
tion is another type of restriction. It limits more sharply the legislative use of individual or local laws. They are forbidden not only where there is an applicable general law, but in every case where a law general in nature and operative effect would be proper and could be made applicable to the subject. The courts have differed as to which branch of government, the legislature or the judiciary, should have the final determination in this regard. It is said that the judgment of the legislature is conclusive, and that the courts cannot invade the legislative domain to discuss the applicability of a general law. The court in the Truax case criticizes this view, stating that the constitutional provision under these holdings “becomes merely monitory and of no practical effect”. In recognition of the anomalous situation thus created, there is an increasing tendency to declare this question to be, in the first instance, for legislative determination, but ultimately for the courts.

A number of the cases hasten to add that every presumption in favor of the constitutionality of the act will be indulged, making no investigation of the legislative exercise of discretion unless it is clearly and palpably unreasonable. The West Virginia court, in Woodall v. Darst, mentions this principle. It must be noted, however, that the special appropriation in that case was upheld, the court refusing to question the legislative determination of fact on which the act was based. A later decision, Brozka v. Brooke County Court, quoting with approval the language of the Woodall case, stated that the circumstances under consideration fulfilled the requirements which would warrant action by the court. The principle was plainly unnecessary as a basis for the decision, because

---

7 The provision enumerates cases in which local or special laws shall not be passed by the Legislature, adding the following: “The Legislature shall provide, by general laws, for the foregoing and all other cases for which provision can be so made; and in no case shall a special act be passed, where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.”

8 Guthrie National Bank v. Guthrie, 173 U. S. 528, 19 S. Ct. 513, 43 L. Ed. 796 (1899); Richman v. Bd. of Supervisors Muscatine County, 77 Iowa 513, 42 N. W. (1889); 1 Lewis’ SUTHERLAND, STATUTORY CONSTRUCTION (2d ed. 1904) § 189.

9 17 S. E. (2d) 330, 334 (W. Va. 1941).


12 71 W. Va. 350, 77 S. E. 264 (1912).

there was in existence a general statute which the court interpreted as adequately covering the subject matter sought to be regulated by the special enactment. Although our court has professed adherence to the principle of ultimate judicial determination, it is interesting to note that in every case where a special act has been struck down, it has interfered with a general law,\textsuperscript{14} as in the \textit{Truax} case. While setting forth the reservation of judicial power, the court has either construed the enactment as general in nature,\textsuperscript{15} or has held the classification made by the legislature to be reasonably justified.\textsuperscript{16}

The substance and practical operation rather than the form or phraseology of the statute will determine whether it is special or general. Some courts have considered extrinsic evidence of circumstances and motives for the passage of the law;\textsuperscript{17} others have refused to look beyond the act itself, and have not entertained declarations that the basic considerations involved here were local in nature.\textsuperscript{18} It may be argued that the principle of judicial ultimacy has constituted a second legislature, in effect, too far removed from the particular wants which the legislation is to serve. On the other side of the issue, it is pertinent to recall the reason for which the constitutional restrictions here under review were adopted — the prevention of the abusive use of such laws for personal advantage. In most instances the courts seem to have used their reservation of power benevolently, "to secure as many interests as may be with as little sacrifice of other interests as may be."\textsuperscript{19}

\textbf{G. W. E.}

\textbf{CORPORATIONS — DeFacto Corporations — Right to Sue in Own Name after Dissolution.} — \textit{P} corporation suits to remove a cloud on title to certain lands and to enjoin \textit{D} from interfering with the possession thereof. \textit{D} filed a plea in abatement to the effect that \textit{P}'s charter had been forfeited by a court decree for nonpayment of taxes. \textit{P} contended that its corporate existence was not

\begin{itemize}
  \item \textsuperscript{14} It must be noted that special laws have also been held unconstitutional where they purported to regulate one of the enumerated subjects in which the constitution expressly prohibits special legislation. \textit{W. Va. Const. art. VI, § 39}. A discussion of the problems involved in this connection is not within the scope of this comment.
  \item \textsuperscript{15} \textit{State ex rel. Rickey v. Sims}, 7 S. E. (2d) 54 (W. Va. 1940).
  \item \textsuperscript{16} \textit{O'Brien v. Board of Com'rs}, 116 W. Va. 404, 180 S. E. 537 (1935).
  \item \textsuperscript{17} \textit{Handy v. Johnson}, 51 F. (2d) 809 (E. D. Tex., 1931); \textit{Graeff v. Schottmann}, 287 Pa. 342, 135 Atl. 308 (1926).
  \item \textsuperscript{18} \textit{Walden v. Montgomery}, 214 Ala. 409, 108 So. 231 (1926).
  \item \textsuperscript{19} \textit{Pound, The End of Law as Developed in Juristio Thought} (1914) 27 \textit{Harv. L. Rev.} 605.
\end{itemize}