

faith, and a disregard of solemn national engagements, which, unless upon grounds which leave the court no alternative, it would be indecent to impute to it. I may add that the same conclusion was reached by Mr. French, the assistant secretary of the treasury, and communicated to the collector in a very clear and convincing instruction under date of October 20, 1882.

The evidence has satisfactorily established that the petitioners were Chinese laborers residing in the United States at the date of the treaty, and that they left this country before the passage of the act of congress of May 6, 1882. They are, therefore, in my judgment, entitled to land without producing the certificates required by that act.

UNITED STATES *v.* SIXTY-FIVE TERRA-COTTA VASES, etc.

(Circuit Court, S. D. New York. November 16, 1883.)

1. CONFLICTING STATUTES—REPEAL.

A later statute, so repugnant to a former one that the two cannot stand together, repeals it by implication.

2. PRE-EXISTING LAWS—TO EXPLAIN DOUBTFUL LANGUAGE.

Only when doubtful language is used in the Revised Statutes can resort be had to pre-existing laws to ascertain its meaning. Resort cannot be had to see if congress erred in the revision.

3. CONSTRUCTION OF STATUTE—GENERAL AND RESTRICTIVE CLAUSES.

Section 2505 of the Revised Statutes declares that, among other articles, "cabinets of coins, medals, and all other collections of antiquities," and "collections of antiquity especially imported, and not for sale," shall be exempt from duty. *Held*, to give effect to the second clause, only such collections are embraced in the first clause as are *ejusdem generis* with coins and medals.

On Writ of Error.

Elihu Root, U. S. Atty., for the United States.

Coudert Bros., proctors for claimant.

WALLACE, J. This writ of error is brought to review a judgment of the United States district court for the southern district of New York dismissing the libel of information. The suit was brought to condemn certain terra-cotta vases, Etruscan vases, stone images, spears, lances, and other articles, because of their alleged fraudulent entry upon importation by the owner to avoid the payment of duties. The evidence, in connection with the admissions of the pleadings, tended to show that the imported articles were a collection of antiquities imported by one De Morgan for sale, but that he represented in the invoice used upon the entry of the articles that they were a private collection, and were not imported for sale, and that the representation was false, in that they were imported to be sold. The judge ruled upon the trial that the imported articles were exempt from duty, and that as they were not dutiable there was no legal

fraud in the attempt to evade the payment of duties, and he therefore directed a verdict for the owner.

Whether the articles were exempt from the payment of duties or not depends upon the construction and effect to be given to two clauses of section 2505 of the Revised Statutes of the United States. That section declares that certain designated articles shall be exempt from duty, among which, in distinct clauses, are "cabinets of coins, medals, and all other collections of antiquities," and "collections of antiquity specially imported and not for sale." The court held that, as the articles in suit were a collection of antiquities, they fell within the first clause. It was insisted for the government that only such collections are within the meaning of that clause as are *ejusdem generis* with coins and medals, and, as the articles in suit were not of this description, they were dutiable. It is impossible to give any effect to the second clause unless this position is correct.

The learned district judge, in his opinion delivered at the trial, reviewed the provisions of the tariff acts on the subject which had been enacted prior to the revision of the statutes, and was controlled in his conclusions by the fact that the first clause had existed from 1846 until 1870, and the second was first enacted by the act of July 14, 1870; and as this later act was designed to extend the free-list, it did not, in his opinion, afford a sufficient indication of a purpose to restrict the provision of the former act to have that effect. It seems to have been overlooked that in the tariff act of 1861 there was a proviso that is material in this aspect of the question. Among the articles declared exempt by that act are, in one clause, "cabinets of coins, medals, and all other collections of antiquities;" and, in another clause, "all collections of antiquity, provided the same be specially imported by any society * * * for the encouragement of the fine arts." When the act of 1870 was passed, therefore, "all collections of antiquity "were not unconditionally upon the free-list." That act limited the proviso of the act of 1861, so that the collections of antiquities which had theretofore been exempt only when specially imported by societies, were thenceforth exempt when imported by any person "not for sale." Thus the act of 1870 enlarged the free-list, instead of restricting it. The district judge treated the question as though congress in one act had exempted all collections of antiquities from duty, and in a subsequent act, which was designed to extend the free-list, had exempted all such collections when specially imported and not for sale. If this were a correct view, it would seem difficult to maintain that the later act was not a repeal of the former. A later statute, so repugnant to a former one that the two cannot stand together, repeals it by implication. The two here could not possibly be reconciled; because, if the former stood, the latter could have no operation whatever. If every collection of antiquities was already exempt, the limitation prescribed by the later act had nothing to which it could attach. Some effect must have been intended and