

1150 STATE EX REL. ATTORNEY GENERAL *v.* WILLIAMS- [183  
ECHOLS DRY GOODS COMPANY.\*

STATE EX REL. ATTORNEY GENERAL *v.* WILLIAMS-ECHOLS  
DRY GOODS COMPANY.\*

Opinion on rehearing delivered March 19, 1928.

STATUTES—EFFECT OF UNCONSTITUTIONAL STATUTE.—Where a statute is held to be unconstitutional, it is in legal contemplation, as operative as though it had never been passed, and former statutes on the subject are left in force and unimpaired.

Appeal from Sebastian Chancery Court, Fort Smith District; *J. V. Bowland*, Chancellor; affirmed.

*H. W. Applegate*, Attorney General, *R. E. L. Johnson* and *John M. Rose*, for appellant.

*Cravens & Cravens*, for appellee.

\*The original opinion was printed in 176 Ark. 328. By oversight this opinion on rehearing was omitted. (Reporter)

ARK.] STATE EX REL. ATTORNEY GENERAL *v.* WILLIAMS- 1151  
ECHOLS DRY GOODS COMPANY.

HART, C. J., (on rehearing). According to a statement in the brief of appellant, plaintiff below, the complaint alleges that the defendant has not for any of the years 1915 to 1925, inclusive, filed an intangible property return with the assessor as provided by § 9965 of Crawford & Moses' Digest. Sections 9964 and 9965 were passed by the Legislature of 1917, and the construction of that statute was determinative of the issue raised by the complaint. The whole controversy arose as to the effect and constitutionality of the act. Having held the statute of 1917 to be unconstitutional, it is in legal contemplation as inoperative as though it had never been passed. *Norton v. Shelby County*, 118 U. S. 425, 6 S. Ct. 1121. It is well settled that when a statute is adjudged to be unconstitutional, it is as if it had never been. *Cochran v. Cobb, State Land Commr.*, 43 Ark. 180, and Cooley's Constitutional Limitations, (8th ed.) vol. 1, p. 382. Having held the act of 1917 in question to be unconstitutional, this leaves our former statutes on the subject of taxation of domestic corporations, and our decisions interpreting them, in force and unimpaired. We adhere to the views expressed in our original opinion, and the motion for rehearing will be denied.