to care for local populations and to discourage attention to out-of-state individuals and groups. "For purposes of Commerce Clause analysis, any categorical distinction between the activities of profit-making enterprises and not-for-profit entities is therefore wholly illusory. Entities in both categories are major participants in interstate markets. And, although the summer camp involved in this case may have a relatively insignificant impact on the commerce of the entire Nation, the interstate commercial activities of nonprofit entities as a class are unquestionably significant." [1129]

Benefit Relationship.—Although, in all the modern cases, the Court has stated that a necessary factor to sustain state taxes having an interstate impact is that the levy be fairly related to benefits provided by the taxing state, it has declined to be drawn into any consideration of the amount of the tax or the value of the benefits bestowed. The test rather is whether, as a matter of the first factor, the business has the requisite nexus with the state; if it does, then the tax meets the fourth factor simply because the business has enjoyed the opportunities and protections that the state has afforded it.[1130]

Regulation.—The modern standard of Commerce Clause review of state regulation of, or having an impact on, interstate commerce was presaged in a series of opinions, mostly dissents, by Chief Justice Stone.[1131] It was first adopted, however, in *Southern Pacific Co. v. Arizona*.[1132] *Southern Pacific* tested the validity of a state train-length law, justified as a safety measure. Revising a hundred years of doctrine, the Chief Justice wrote that whether a state or local regulation was valid depended upon a "reconciliation of the conflicting claims of state and national power [that] is to be attained only by some appraisal and accommodation of the competing demands of the state and national interests involved." [1133] Save in those few cases in which Congress has acted, "this Court, and not the state

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[1129] 520 U.S. at 586.

[1130] Commonwealth Edison Co. v. Montana, 453 U.S. 609, 620–29 (1981). Two state taxes imposing flat rates on truckers, because they did not vary directly with miles traveled or with some other proxy for value obtained from the state, were found to violate this standard in American Trucking Ass'ns, Inc. v. Scheiner, 483 U.S. 266, 291 (1987). *But see* American Trucking Ass'ns v. Michigan Pub. Serv. Comm'n, 545 U.S. 429 (2005), upholding imposition of a flat annual fee on all trucks engaged in intrastate hauling (including trucks engaged in interstate hauling that "top off" loads with intrastate pickups and deliveries) and concluding that levying the fee on a per-truck rather than per-mile basis was permissible in view of the objectives of defraying costs administering various size, weight, safety, and insurance requirements.

[1131] *E.g.*, DiSanto v. Pennsylvania, 273 U.S. 34, 43 (1927) (dissenting); California v. Thompson, 313 U.S. 109 (1941); Duckworth v. Arkansas, 314 U.S. 390 (1941); Parker v. Brown, 317 U.S. 341, 362–68 (1943) (alternative holding).

[1132] 325 U.S. 761 (1945).

[1133] Southern Pacific Co. v. Arizona, 325 U.S. 761, 768–69 (1941).