

## Sec. 10—Powers Denied to the States

## Cl. 1—Treaties, Coining Money, Etc.

An excellent illustration of the operation of the rule in relation to tax exemptions was furnished by the derivative doctrine that an immunity of this character must be deemed as intended solely for the benefit of the corporation receiving it and hence, in the absence of express permission by the state, may not be passed on to a successor.<sup>2033</sup> Thus, where two companies, each exempt from taxation, were permitted by the legislature to consolidate, the new corporation was held to be subject to taxation.<sup>2034</sup> Again, a statute that granted a corporation all “the rights and privileges” of an earlier corporation was held not to confer the latter’s “immunity” from taxation.<sup>2035</sup> Yet again, a legislative authorization of the transfer by one corporation to another of the former’s “estate, property, right, privileges, and franchises” was held not to clothe the later company with the earlier one’s exemption from taxation.<sup>2036</sup>

Furthermore, an exemption from taxation is to be strictly construed even in the hands of one clearly entitled to it. Thus, the exemption conferred by its charter on a railway company was held not to extend to branch roads it constructed pursuant to a later statute.<sup>2037</sup> Also, a general exemption of the property of a corporation from taxation was held to refer only to the property actually employed in its business.<sup>2038</sup> And, the charter exemption of the capital stock of a railroad from taxation “for ten years after completion of the said road” was held not to become operative until the completion of the road.<sup>2039</sup> So also the exemption of the campus and endowment fund of a college was held to leave other lands of the college, though a part of its endowment, subject to taxation.<sup>2040</sup> Provisions in a statute that bonds of the state and its political subdivisions were not to be taxed and should not be taxed were held not to exempt interest on them from taxation as income of the owners.<sup>2041</sup>

***Strict Construction and the Police Power.***—The police power, too, has frequently benefitted from the doctrine of strict construc-

<sup>2033</sup> *Memphis & L.R. R.R. v. Comm’rs*, 112 U.S. 609, 617 (1884). *See also* *Morgan v. Louisiana*, 93 U.S. 217 (1876); *Wilson v. Gaines*, 103 U.S. 417 (1881); *Louisville & Nashville R.R. v. Palmes*, 109 U.S. 244, 251 (1883); *Norfolk & Western R.R. v. Pendleton*, 156 U.S. 667, 673 (1895); *Picard v. East Tennessee, V. & G. R.R.*, 130 U.S. 637, 641 (1889).

<sup>2034</sup> *Atlantic & Gulf R.R. v. Georgia*, 98 U.S. 359, 365 (1879).

<sup>2035</sup> *Phoenix F. & M. Ins. Co. v. Tennessee*, 161 U.S. 174 (1896).

<sup>2036</sup> *Rochester Ry. v. Rochester*, 205 U.S. 236 (1907); followed in *Wright v. Georgia R.R. & Banking Co.*, 216 U.S. 420 (1910); *Rapid Transit Corp. v. New York*, 303 U.S. 573 (1938). *Cf.* *Tennessee v. Whitworth*, 117 U.S. 139 (1886), the authority of which is respected in the preceding case.

<sup>2037</sup> *Chicago, B. & K.C. R.R. v. Guffey*, 120 U.S. 569 (1887).

<sup>2038</sup> *Ford v. Delta and Pine Land Company*, 164 U.S. 662 (1897).

<sup>2039</sup> *Vicksburg, S. & P. R.R. v. Dennis*, 116 U.S. 665 (1886).

<sup>2040</sup> *Millsaps College v. City of Jackson*, 275 U.S. 129 (1927).

<sup>2041</sup> *Hale v. State Board*, 302 U.S. 95 (1937).