

Sec. 10—Powers Denied to the States

Cl. 1—Treaties, Coining Money, Etc.

and federal courts will be bound by decisions of the highest state court on such matters, this rule does not hold when the contract is one whose obligation is alleged to have been impaired by state law.¹⁹⁶⁰ Otherwise, the challenged state authority could be vindicated through the simple device of a modification or outright nullification by the state court of the contract rights in issue. Similarly, the highest state court usually has final authority in construing state statutes and determining their validity in relation to the state constitution. But this rule too has had to bend to some extent to the Supreme Court's interpretation of the Contract Clause.¹⁹⁶¹

Suppose the following situation: (1) a municipality, acting under authority conferred by a state statute, has issued bonds in aid of a railway company; (2) the validity of this statute has been sustained by the highest state court; (3) later the state legislature repeals certain taxes to be used to pay off the bonds when they become due; (4) the repeal is sustained by a decision of the highest state court holding that the statute authorizing the bonds was unconstitutional *ab initio*. In such a case the Supreme Court would take an appeal from the state court and would reverse the latter's decision of unconstitutionality because of its effect in rendering operative the repeal of the tax.¹⁹⁶²

Suppose, however, that the state court has held the statute authorizing the bonds unconstitutional *ab initio* in a suit by a creditor for payment without the state legislature's having repealed the taxes. In this situation, the Supreme Court would still afford relief if the case were one between citizens of different states, which reached it via a lower federal court.¹⁹⁶³ This is because in cases of this na-

¹⁹⁶⁰ *Jefferson Branch Bank v. Skelly*, 66 U.S. (1 Bl.) 436, 443 (1862); *Bridge Proprietors v. Hoboken Co.*, 68 U.S. (1 Wall.) 116, 145 (1863); *Wright v. Nagle*, 101 U.S. 791, 793 (1880); *McGahey v. Virginia*, 135 U.S. 662, 667 (1890); *Scott v. McNeal*, 154 U.S. 34, 35 (1894); *Stearns v. Minnesota*, 179 U.S. 223, 232–33 (1900); *Coombes v. Getz*, 285 U.S. 434, 441 (1932); *Atlantic Coast Line R.R. v. Phillips*, 332 U.S. 168, 170 (1947).

¹⁹⁶¹ *McCullough v. Virginia*, 172 U.S. 102 (1898); *Houston & Texas Central Rd. Co. v. Texas*, 177 U.S. 66, 76, 77 (1900); *Hubert v. New Orleans*, 215 U.S. 170, 175 (1909); *Carondelet Canal Co. v. Louisiana*, 233 U.S. 362, 376 (1914); *Louisiana Ry. & Nav. Co. v. New Orleans*, 235 U.S. 164, 171 (1914).

¹⁹⁶² *State Bank of Ohio v. Knoop*, 57 U.S. (16 How.) 369 (1854) (discussed below), and *Ohio Life Ins. and Trust Co. v. Debolt*, 57 U.S. (16 How.) 416 (1854), are the leading cases. See also *Jefferson Branch Bank v. Skelly*, 66 U.S. (1 Bl.) 436 (1862); *Louisiana v. Pilsbury*, 105 U.S. 278 (1882); *McGahey v. Virginia*, 135 U.S. 662 (1890); *Mobile & Ohio R.R. v. Tennessee*, 153 U.S. 486 (1894); *Bacon v. Texas*, 163 U.S. 207 (1896); *McCullough v. Virginia*, 172 U.S. 102 (1898).

¹⁹⁶³ *Gelpcke v. City of Debuque*, 68 U.S. (1 Wall.) 175, 206 (1865); *Havemayer v. Iowa County*, 70 U.S. (3 Wall.) 294 (1866); *Thomson v. Lee County*, 70 U.S. (3 Wall.) 327 (1866); *The City v. Lamson*, 76 U.S. (9 Wall.) 477 (1870); *Olcott v. The Supervisors*, 83 U.S. (16 Wall.) 678 (1873); *Taylor v. Ypsilanti*, 105 U.S. 60 (1882); *Anderson v. Santa Anna*, 116 U.S. 356 (1886); *Wilkes County v. Coler*, 180 U.S. 506 (1901).