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### Exemption of Federal Instrumentalities from State Taxation [Panhandle Oil Co. v. Mississippi, 48 Sup. Ct 451]

Arthur H. Kent

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CONSTITUTIONAL LAW—LEGISLATIVE POWERS: TAXATION—EXEMPTION OF FEDERAL INSTRUMENTALITY FROM STATE TAXATION.—The defendant, a private corporation, sold gasoline to the Federal Government for the use of the Coast Guard and the Veterans' Hospital, and it did not include in the purchase price the amount of the Mississippi privilege tax on all gasoline sales. The state sued to recover these taxes, and demurred to the defendant's special plea of exemption as a federal instrumentality. A judgment overruling the demurrer was reversed by the supreme court of Mississippi. 147 Miss. 663, 112 So. 584 (1927). The defendant took a writ of error to the Supreme Court. *Held*, that Mississippi may not tax any transaction by which the United States secures materials desired for government purposes. Judgment reversed. *Panhandle Oil Co. v. Mississippi*, 48 Sup. Ct. 451 (U. S. 1928).

A corporation is exempt from state taxation if its authorized function is to serve the Federal Government. *Clallam County v. United States*, 263 U. S. 341 (1923) (exclusive service); *Williams v. Talladega*, 226 U. S. 404 (1912) (partial service). But it has repeatedly been held that a single contract with the Federal Government is not sufficient to convert a private corporation into a federal instrumentality exempt from state taxes. *Metcalf v. Mitchell*, 269 U. S. 514 (1926); *Baltimore Dry Dock Co. v. Baltimore*, 195 U. S. 375 (1904). It would seem that these decisions might be controlling in the principal case. Exemption has been granted to corporations under no contract with the Federal Government and only remotely affecting federal activities. *Jaybird Mining Co. v. Weir*, 271 U. S. 609 (1926) (mining corporation paying royalties to Indian lessee). This class of cases is distinguishable, however, as resulting from a strong governmental policy of protecting Indians in their lease allotments, rather than a genuine attempt to protect a federal instrumentality. *Shaw v. Gibson Zahniser Oil Corp.*, 48 Sup. Ct. 333 (U. S. 1928). Moreover, even if the plaintiff is considered an operator of a governmental agency, the basis of the rule of exemption must be examined. The test of the validity of a state tax on a governmental agency should properly be whether or not the tax effectively deprives such agency of its ability to serve the government. See *Railroad Co. v. Peniston*, 18 Wall. 5, 36 (U. S. 1873). It is difficult to see why the United States should be a privileged purchaser, or how any governmental function is interfered with by a tax applied indiscriminately to all of the defendant's sales. *Grayburg Oil Co. v. Texas*, 3 S. W.(2d) 427 (Texas 1928).

CONTRACTS—OFFER AND ACCEPTANCE—REVOCATION OF AN OFFER TO A UNILATERAL CONTRACT.—The defendant held a mortgage on the plaintiff's property, which he offered to surrender if the plaintiff paid cash on or before a certain date. The plaintiff entered into a contract to sell the land free from the mortgage, and within the specified period he went to the defendant's home and knocked on the door. In response to the defendant's inquiry, the plaintiff replied: "It is I; I have come to pay off the mortgage." The defendant thereupon informed him that the mortgage had been sold, but the plaintiff nevertheless entered and tendered money which was refused. The plaintiff sued for the difference between the amount which the defendant had agreed to accept, and the amount necessary to clear the title. From a judgment for the plaintiff, the defendant appealed. *Held*, that the defendant had a right to revoke his offer at any time before the act requested as consideration was performed. Judgment reversed. *Petterson v. Pattberg*, 248 N. Y. 86, 161 N. E. 428 (1928).

Despite the general rule that an offer to a unilateral contract may be revoked at any time before complete performance, a few courts have held that part performance by the offeree binds the offeror. *Los Angeles Traction Co.*