Frothingham v. *Mellon, Sec'y of the Treasury,* 262 U. S. 447, 487, 488, announces the applicable doctrine.

"The administration of any statute, likely to produce additional taxation to be imposed upon a vast number of taxpayers, the extent of whose several liability is indefinite and constantly changing, is essentially a matter of public and not of individual concern."

The federal courts have no power *per se* to review and annul acts of state legislatures upon the ground that they conflict with the federal or state constitutions. "That question may be considered only when the justification for some direct injury suffered or threatened, presenting a justiciable issue, is made to rest upon such an act."

The decree below is

Affirmed.

The CHIEF JUSTICE, MR. JUSTICE VAN DEVANTER and MR. JUSTICE BUTLER are of opinion that the appellants' status is such as entitles them to test the validity of the California statutes in question; that these statutes do not exact tolls for the use of highways within the meaning of the limitation contained in the Federal Highway acts, and are not subject to the other objections urged against them; and that for these reasons the decree below should be affirmed.

BEKINS VAN LINES, INCORPORATED, ET AL. *v.* RILEY, STATE CONTROLLER OF CALIFORNIA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

No. 13. Argued April 18, 1929.—Decided November 25, 1929.

A state law which, in the taxation of carriers of freight by motor vehicle using the public highways, distinguishes between those common carriers who operate over regular routes between fixed termini and other carriers, common and private, does not deprive

the first mentioned class of equal protection in violation of the Fourteenth Amendment, even if the tax upon it be more burdensome than that upon the others, since it can not be said that the classification lacks any reasonable basis. So *held* in view (1) of the differences between common and private carriers, and (2) of the probability that common carriers operating regularly between fixed termini cause greater wear to the public highways and greater danger to the public thereon. P. 82.

Affirmed.

APPEAL from a decree of the District Court (three judges) dismissing a bill to enjoin the State Controller from enforcing a tax on the appellants' gross receipts from transportation of freight on public highways in motor vehicles.

Mr. Samuel T. Bush, with whom *Mr. William Sea, Jr.,* was on the brief, for appellants.

Mr. Frank L. Guerena, Deputy Attorney General of California, with whom *Mr. U. S. Webb,* Attorney General, was on the brief, for appellee.

Opinion of the Court by MR. JUSTICE MCREYNOLDS, announced by the CHIEF JUSTICE.

Appellants, as common carriers, are engaged in transporting freight by motor vehicles for hire along public highways between fixed termini and over regular routes within California. The 1926 Amendment to the Constitution and the statutes of that State lay upon such carriers a tax of 5% of their gross receipts in lieu of all other taxes, while other freight carriers, common and private, by motor vehicles, are subjected to different and, it is alleged, less burdensome taxation. Cal. Const., Art. 13, § 15; March 5, 1927, Chap. 19, 1927 Cal. Stats.

By this proceeding, instituted July 21, 1928, appellants ask that the constitutional amendment and the statute

which undertake to lay such tax upon them be declared discriminatory and in conflict with § 1, of the Fourteenth Amendment; also that an injunction issue against the State Controller forbidding him from attempting to enforce payment.

Upon motion, without written opinion, the District Court—three judges sitting—dismissed the bill. The cause is here by direct appeal; and the only matter for our determination is the validity of the challenged classification.

The power of a State in respect of classification has often been declared by opinions here. We are unable to say that there was no reasonable basis for the one under consideration; the court below reached the proper result; and its decree must be affirmed.

Appellants voluntarily assumed the position of common carriers operating between fixed termini and enjoy all consequent benefits. That a marked distinction exists between common and private carriers by auto vehicles appears from *Frost* v. *Railroad Commission,* 271 U. S. 583 and *Michigan Public Utilities Commission* v. *Duke,* 266 U. S. 570. Sufficient reasons for placing common carriers, operating as appellants do, in a special class are pointed out by *Raymond* v. *Holm,* 165 Minn. 215; *State* v. *Le Febvre,* 174 Minn. 248; *Iowa Motor Vehicle Assn.* v. *Board of Railroad Commissioners,* 207 Iowa 461; *Liberty Highway Co.* v. *Michigan Public Utilities Commission,* 294 Fed. 703. Their use of the highways probably will be regular and frequent and, therefore, unusually destructive thereto. Also it will expose the public to dangers exceeding those consequent upon the occasional movements of other carriers.

Although relied upon by counsel and said to be almost identical with the case at bar, *Quaker City Cab Co.* v. *Pennsylvania,* 277 U. S. 389, gives no support to claim of

undue discrimination. We regard the controversy as not open to serious doubt and further discussion of it seems unnecessary.

Affirmed.

SAFE DEPOSIT AND TRUST COMPANY OF BALTIMORE v. COMMONWEALTH OF VIRGINIA.

APPEAL FROM THE SPECIAL COURT OF APPEALS OF VIRGINIA.

No. 20. Argued October 24, 1929.—Decided November 25, 1929.

1. Cause held properly here on appeal; certiorari denied. P. 89.
2. A statute of a State which undertakes to tax things wholly beyond her jurisdiction or control conflicts with the Fourteenth Amendment. P. 92.
3. *Mobilia sequuntur personam* is a fiction intended for convenience, not controlling where justice does not demand it, and not to be applied if the result would be a patent and inescapable injustice through double taxation, or otherwise. Pp. 92, 93.
4. Intangibles, such as stocks and bonds, in the hands of the holder of the legal title, with definite taxable situs at that owner's residence not subject to be changed by the equitable owner, may not be taxed at the latter's domicile in another State. P. 93.
5. A citizen of Virginia transferred a fund of stocks and bonds to a Maryland Trust Company in trust for his two minor sons. The trustee was empowered to change the investments and was to accumulate the income, first paying taxes and its own commissions, and, as each son attained the age of twenty-five years, was to pay him one-half of the principal with the income accumulated thereon. If either son died before receiving his share, his share was to be paid over to his children, if he left any; otherwise it was to be added to that of the surviving son and held for his use and benefit in the same manner as the original share of that son was held. The deed made no provision for the event of death of both sons under twenty-five without issue. The donor reserved to himself a power of revocation but died in Virginia without exercising it. The Trust Company continued to hold the original securities in Baltimore, Maryland, and paid the taxes regularly demanded by that City and State on account of them. Administration of the