

exercised where there is a clear and undoubted infringement of the Constitution. In all cases the presumption is in favor of the validity of the legislative act, and where there is room for doubt this presumption must prevail. Especially is great respect due to the legislative construction of a constitutional provision where, as in the present case, it is a question not of private right, but of public policy. For the preservation of individual rights, whether as between man and man or between the citizens and the public or the government, the courts are the natural guardians, with special advantages of training and modes of procedure for the attainment of justice; but for the preservation, as well as for the determination, in the first instance, of matters of State policy, the proper tribunal is the legislature, and its construction of a constitutional mandate upon this subject must be held binding and conclusive until shown clearly and beyond all question to be in violation of the intention of the people in their sovereign expression of their will through the Constitution.

These principles are trite, but the haste and crudity of much recent legislation has required such frequent exercise of the judicial power to keep it within constitutional bounds, that the delicacy and exceptional nature of the power is too commonly lost sight of, and I have thought it proper to recall its true limits, familiar as they are, because of the tone of argument for the defendant in the present case, which assumes that as exemption from taxation is a special privilege it must be clearly shown, and that it is, therefore, sufficient for the defendant to show a doubt, in order to defeat the complainant's case. Such certainly is the rule in determining whether or not exemption has been granted to any particular claimant by an act of Assembly. The sovereign power of taxation is never to be taken away except by a clear grant. But where the legislature has clearly intended the exemption, the validity of that act must be assumed, like all others, until clearly shown to be beyond the legislative authority.

