

must, by its indirect operation, affect also the "rights" incidental to the ownership of those shares. Thus it may be assumed that a Provincial Legislature is authorized to impose onerous taxes upon shares, even though the power may be exercised in such a manner as to render them quite valueless.² But the situs of the "rights" of a non-resident with respect to the use and disposition of his shares seems to be clearly at their own domicile.³ In this point of view it may be argued that a statute which does not apply specifically to such shares as a subject-matter for appropriation, or for the imposition of some

2. The accepted American doctrine is that the State Legislatures have full authority to tax the shares of non-resident shareholders. See Cooley on Taxation, 3rd ed., p. 92. In *Olive v. Washington Mills*, 11 Allen 268, the Supreme Court of Massachusetts recognized this doctrine, but annulled the given statute on the ground that the tax had been imposed in an improper manner.

The theory of the American judges as to the locality of corporate stock is also illustrated by the doctrine that, for purposes of attachment, it is located where the corporation is organized, and nowhere else. Cooley on Corp., sec. 485. See also Wharton on Conf. of Laws (3rd ed.), sec. 368d.

3. The following passage in the leading case, *In re Bronson*, 158 N.Y. 1, is deserving of notice in this connection, although it does not deal with precisely the same question as that which is involved in the construction of the British North America Act: "In legal contemplation the property of the shareholder is either where the corporation exists or at his domicile; accordingly as it is considered to consist in his contractual rights, or in his proprietary interest in the corporation. In the case of bonds, they represent but a property in the debt, and that follows the creditor's person. Hence it cannot be said, if the property represented by a share of stock has its legal situs either where the corporation exists, or at the holder's domicile, as we have said in the *Euston* and *James* cases (*In re Euston*, 113 N.Y. 181; *In re James*, 144 N.Y. 12), that the State is without jurisdiction for taxation purposes. As personally, the legal title does follow the person of the owner; but the property is in his right to share in the net produce, and eventually in the net residuum of the corporate assets resulting from liquidation. That right as a chose in action must necessarily follow the shareholder's person; but that does not exclude the idea that property, as to which the right relates, and which is, in effect, a distinct interest in the corporate property, is not within the jurisdiction of the State for the purpose of assessment upon its transfer through the operation of any law, or of the act of its owner. The attempt to tax a debt of the corporation to a non-resident of the State, as being property within the State, is one thing, and the imposition of a tax upon the transfer of any interest in or right to, the corporate property is another thing. The corporation is the creature of State laws and those who become its members, as shareholders, are subject to the operation of those laws, with respect to any limitation upon their property rights and with respect to the right to assess their property interests for purposes of taxation."