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necessary service within the scope of the purposes of a tax exempt organization, yet hospitals are not subject to real property taxes.[13]

The dissent agreed with the majority opinion in so far as it held that it is proper for a college to provide facilities for students to be fed, but by strictly construing the controlling statute[14] it reached the conclusion that the college did not meet the qualifications for a complete exemption since it had a non-exempt corporation running the cafeteria. To further support this conclusion the dissent noted that the Legislature considered[15] and amended[16] this subdivision of the law to provide an exemption where exempt corporations lease to other exempt corporations; but, having made no provision for non-exempt corporations using the property of exempt corporation, the Legislature, the dissent reasoned, did not intend an exemption for such use. The dissent's application of the principle, *unus inclusio alterius exclusio,* does not seem to be supported by the legislative history of the amendment.[17] The statute before amendment had been interpreted to deprive corporations of their real property tax exemption when they had leased to other exempt corporations. It was to eliminate this injustice that the statute was amended, not to prevent a corporation, already exempt, from carrying out its purposes through an independent contractor.[18]

This decision is supported by the policy expressed in the courts of this state that these statutes are not to be so strictly construed that they fail to serve their purpose, which is to encourage institutions of an educational character.[19]

Harness Racing Admissions Tax — Consistency of Statutes

In *County of Saratoga v. Saratoga Harness Racing Association,*[20] the Court held that where two acts were passed at the same session of the Legislature, the first amending a previous law so as to empower the County to levy an admissions tax on the Harness Racing Association, and the second amending the same law so as to raise the tax base on all such admissions, the two laws were not inconsistent, and the latter did not overrule the former by implication. The courts of this state do not generally favor repeal by implication[21] and this rule

13. People ex rel. Doctors Hospital v. Sexton, 267 App. Div. 736, 48 N.Y.S.2d 201 (1st Dep't 1944), *aff'd mem.*, 295 N.Y. 553, 64 N.E.2d 273 (1945).
14. N. Y. TAX LAW §4(6).
15. 1948 NEW YORK LEGISLATIVE ANNUAL 291-293.
16. N. Y. TAX LAW §4(6), as amended by Laws, 1948, Ch. 622. 1948 NEW YORK LEGISLATIVE ANNUAL, *supra* note 15.
17. People ex rel. Congregational Society of the City of New York v. Mills, 189 Misc. 774, 71 N.Y.S.2d 873 (Sup. Ct. 1947).
18. See 1948 NEW YORK LEGISLATIVE ANNUAL, *supra* note 15.
19. Saint Barbara's Roman Catholic Church v. City of New York, 243 App.Div. 371, 277 N.Y. Supp. 538 (2d Dep't 1935).
20. 4 N.Y.2d 622, 172 N.Y.S.2d 230 (1958).
21. Cimo v. State of New York, 306 N.Y. 143, 116 N.E.2d 290 (1953).

applies especially strongly when the statutes are enacted at the same session of the Legislature.[22]

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Replevin — Unlawful Detention of Property

In *Michalowski v. Ey*,[1] plaintiff, an individual with an "unsavory" police record, sought the return of and damages for the wrongful detention of an automobile seized by county police. Acting upon information that a fugitive was within their jurisdiction and that he was the owner of said vehicle, police found plaintiff in possession of the car and seized it in spite of his verbal protests of ownership. After the seizure, plaintiff presented documentary proof signed by the fugitive certifying to the sale of the vehicle to plaintiff. Five years later this action in replevin was commenced, in which plaintiff produced additional documentary evidence from the fugitive dated subsequent to the commencement of the trial.

The police have a right of seizure and detention of personal property where it is held as evidence, is the "fruit of a crime,"[2] or was used in the commission of a crime.[3]. The Vehicle and Traffic Law, section 60(3), provides for the seizure of any motor vehicle by any policeman, state trooper, or peace officer where there is "good reason to believe" such motor vehicle has been stolen, but that the officer shall proceed to the most accessible magistrate or judge who shall examine the facts and give directions as to the vehicle's disposition. The validity of the seizure was upheld since there was good reason to believe the vehicle had been stolen. However, the vehicle was not taken before a magistrate or judge, as was required.

The Court of Appeals unanimously concluded that the only reasonable finding on the basis of the evidence was that plaintiffff owned the car at the time of seizure. Any detention beyond the time necessary to determine if the vehicle had in fact been stolen was a wrongful detention.

The fact that an individual of "unsavory" criminal reputation attempts to prove ownership of personal property by producing documentary evidence of its sale signed by a fugitive known to have been the owner of property does not warrant an inference that the individual is attempting to assist the fugitive in avoiding apprehension. An individual's reputation will not affect his ability to own personal property.

22. McKinney's Consolidated Laws, STATUTES §393; Board of Education v. Rogers, 278 N.Y. 66, 15 N.E.2d 401 (1938).

1. 4 N.Y.2d 277, 174 N.Y.S.2d 4 (1958).
2. Hofferman v. Simmons, 290 N.Y. 449, 49 N.E.2d 523 (1943).
3. Flegenheimer v. Brogan 284 N.Y. 268, 272, 30 N.E.2d 591, 592 (1942).