Louisiana *v.* New Orleans.

Mr. Chief Justice Waite delivered the opinion of the court.

As the judgment in this case was rendered after Hill's adjudication in bankruptcy, we think he may prosecute a writ of error in his own name. We will not undertake to decide on a motion to dismiss, whether his discharge operates to release him from all liability growing out of the judgment. The motions are, therefore, overruled; but if the assignee shall be of the opinion that any of the questions involved are such as may affect the estate of the bankrupt, he will be heard on such questions by his counsel in connection with the plaintiff in error when the case comes up for argument, if he desires. *Denied.*

Mr. Adolph Moses for the motion to dismiss. *Mr. George W. Brandt* opposing.

FARLOW *v.* KELLEY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

No. 795. October Term, 1880. — Decided March 14, 1881.

An allowance by a Circuit Court of an appeal taken by a receiver, is equivalent to leave by the court to the receiver to take an appeal.

Motion to dismiss. The case is stated in the opinion.

Mr. Chief Justice Waite delivered the opinion of the court.

This motion is denied. The allowance of the appeal by the circuit justice is equivalent to leave by the court to the receiver to take an appeal. The order appealed from finally disposed of the suit, which was instituted against the receiver by permission of the court under date of November 13, 1878. It was the final judgment or decree in that matter. To what extent it may be reviewable here, in this form of proceeding, will be for determination when the case is heard on its merits.

Mr. R. P. Buckland and *Mr. J. W. Keifer* for the motion. *Mr. S. A. Bowman* opposing.

LOUISIANA *ex rel.* FOLSOM *v.* NEW ORLEANS.

ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

No. 810. October Term, 1880. — Decided March 14, 1881.

The judges of the court differing in opinion, the submission is set aside, and an argument ordered.

Cases Omitted in the Reports.

THE case is stated in the opinion.

MR. JUSTICE FIELD announced the order of the court.

The relators are the holders of two judgments against the city of New Orleans, one for $26,850, the other for $2000. Both were recovered in the courts of Louisiana; the first in June, 1877, by the relators; the second in June, 1874, by parties who assigned it to them. Both judgments were for damages caused to the property of the plaintiffs therein by a mob or riotous assemblage of people, in the year 1873. A statute of the State made municipal corporations liable for damages thus caused within their limits. Revised Statutes of Louisiana, 1870, § 2453.

The judgments were duly registered in the office of the controller of the city, pursuant to the provisions of the act known as No. 5, of the extra session of 1870, and the present proceeding was taken by the relators to compel the authorities of the city to provide for their payment.

At the time the injuries complained of were committed, and one of the judgments was recovered, the city of New Orleans was authorized to levy and collect a tax upon property within its limits, of one dollar and seventy-five cents upon every one hundred dollars of its assessed value. At the time the other judgment was recovered this limit of taxation had been reduced to one dollar and fifty cents on every one hundred dollars of the assessed value of the property. By the constitution of the State adopted in 1879, the power of the city to impose taxes on property in its limits was further restricted to ten mills on the dollar of its valuation.

The effect of this last limitation is to prevent the relators, they not being allowed to issue executions against the city, from collecting their judgments, as the funds receivable from the tax thus authorized to be levied are exhausted by the current expenses of the city, which are to be first met.

The question is therefore raised by the relators whether the limitation of the taxing power of the city by the state constitution of 1879, does not conflict, so far as it applies to their judgments, with the clause of the 14th Amendment of the Constitution of the United States which forbids the State to deprive any person of property, without due process of law, their contention being that the judgments are property, and the restriction of the power of taxation of the city of New Orleans to its present limit, since they were recovered, renders it impossible to collect them and thus they are practically destroyed.

Upon the question thus presented the judges differ in opinion. The court, therefore, orders an oral argument upon it.

The submission on briefs is accordingly set aside and the cause restored to its place on the calendar.

Mr. Robert Mott, Mr. Thomas J. Semmes and *Mr. Henry B. Kelly* for plaintiffs in error. *Mr. E. Howard McCaleb* and *Mr. Henry C. Miller* for defendants in error.

This case was argued and decided at October Term, 1883. See 109 U. S. 285.

NATIONAL LIFE INSURANCE COMPANY *v.* SCHEFFER.

ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

No. 273. October Term, 1881. — Decided April 24, 1882.

A record in a state court which shows a verdict and motion for new trial overruled, but no judgment on the verdict, shows no final judgment to which a writ of error may be directed.

The case is stated in the opinion.

Mr. Chief Justice Waite delivered the opinion of the court.

A majority of the court is of opinion that there has been no final judgment below in this case. Upon the trial in the District Court of Ramsey County, a verdict was rendered in favor of the plaintiff. Before any judgment was entered on this verdict, a motion was made for a new trial. This motion was overruled and thereupon an appeal was taken to the Supreme Court of the State from "the order . . . denying the application for a new trial." The judgment on this appeal is as follows: "Pursuant to an order of court duly made and entered in this cause on the 21st of March, 1879, it is here and hereby determined and adjudged that the order herein appealed from, to wit, of the District Court of the second judicial district, sitting within and for the county of Ramsey, be and the same hereby is in all things affirmed." Then follows a judgment for costs in the Supreme Court. No further proceedings appear to have been had in either court, and the record consequently shows a verdict and motion for new trial overruled, but no judgment on the verdict. It follows that the writ of error must be

Dismissed.

Mr. Isaac N. Arnold, Mr. Van H. Higgins and *Mr. Leonard Swett* for plaintiffs in error. *Mr. E. C. Palmer* for defendants in error.