

## Opinion of the Court.

treating the corporation of plaintiff in error as a corporation doing business by virtue of the charter of 1856, and the legislative recognition accorded to Taylor and his associates in 1881, while at the same time the exemption contained in that same charter is held not to have passed by any of the proceedings above mentioned. This view of the case disposes of the objection taken by plaintiff in error to the position of the State as being inconsistent in that it assumes by taxing the corporation plaintiff in error or its shareholders and by its bill of complaint in this suit to treat the former as a corporation, while at the same time denying it the exemption contained in the third section of the act of 1856. We agree that the bill of complaint and the supplemental bill in this suit both proceed upon an implication that the corporation plaintiff in error is actually a corporation under the provisions of the charter of 1856 alone, and that it has no other charter under which to justify its corporate existence than the one just named; but for the reasons already given, the attitude of the State is not inconsistent in treating the plaintiff in error as a corporation, and at the same time denying to it any title to the exemption claimed. The corporation may exist under and by virtue of the purchase of the charter at the receiver's sale, and the legislative recognition and the assumption of the State that it is a corporation, and yet not have the title to the exemption, because it is not in fact or in law the same corporation originally incorporated.

The judgment must be

*Affirmed.*

MR. JUSTICE WHITE concurred in the result.

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MERCANTILE BANK v. TENNESSEE AND SHELBY COUNTY, No. 677, by stipulation, abides the event of the foregoing case.