

Counsel for Appellants.

zens' Bank, recognizing and enforcing its non-liability to taxation, state, parochial and municipal, on its capital stock, its banking house and furniture acquired and used for the purposes of its banking business, and on a tax on its shareholders eo nomine, accompanied with a legal obligation on the bank to pay the tax. Second, rejecting the claim of the bank to non-liability of its shareholders for taxation, without prejudice to the rights of the shareholders to resist an assessment for taxation against the shares owned by them unaccompanied with an obligation on the part of the bank to pay, in case such tax should be levied by the laws of Louisiana. Third, rejecting the claim of the bank to non-liability to taxation on the property acquired by it under foreclosure of mortgage — the whole without prejudice to the right of the state and municipal authorities to claim a license tax, should such be imposed by law on the bank, and without prejudice to the right of the bank to assert any legal defences which it may have to the payment of such license tax.

MR. CHIEF JUSTICE FULLER, MR. JUSTICE BROWN and MR. JUSTICE PECKHAM dissented on the ground that the judgments relied on by the appellee are not *res judicata*, although in all other respects they concurred.

LOUISIANA v. NEW ORLEANS.

ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

No. 483. Argued January 15, 18, 1897. — Decided May 24, 1897.

New Orleans v. Citizens' Bank, 167 U. S. 371, affirmed and followed.

THE case is stated in the opinion. The case was argued with *New Orleans v. Citizens' Bank*, ante, 371, as one case.

Mr. M. J. Cunningham, Attorney General of the State of

Opinion of the Court.

Louisiana for appellants. *Mr. F. C. Zacharie* and *Mr. Alexander Porter Morse* were on his brief.

Mr. William A. Maury for appellee. *Mr. Henry Denis* and *Mr. Branch K. Miller* were on his brief.

Mr. Samuel L. Gilmore for appellant.

MR. JUSTICE WHITE delivered the opinion of the court.

The reasons given for our decree in the case of *New Orleans v. Citizens' Bank*, just decided, are decisive of this cause, which comes on error to the Supreme Court of the State of Louisiana. The controversy presented to that court was whether property bought in by the Citizens' Bank under foreclosure of its stock and stock loan mortgages became a part of its capital, and as such was not liable to taxation. The Supreme Court of Louisiana held, conceding, *arguendo*, the non-taxability of the capital that the real estate so purchased was taxable. *State ex rel. Citizens' Bank v. Board of Assessors*, 48 La. Ann. 35.

The theory on which the writ of error was prosecuted is that this decision of the Supreme Court of the State of Louisiana constitutes an impairment of the obligations of the contract arising from the charter of the bank.

As, in the case just decided, we have held that the property bought in by the bank under foreclosure of its stock mortgages was not the capital of the bank, and therefore was not covered by the estoppel of the thing adjudged, the conclusions there expressed are in all respects applicable and decisive of the controversy here presented, and the judgment of the Supreme Court of Louisiana is, therefore,

Affirmed.