

corporation to do business in the State and other for the right to be a corporation. The fact is that both corporations do the same business in character and kind, and under the statute in question a foreign corporation may be taxed many thousands of dollars for the privilege of doing, within the State, exactly the same business as the domestic corporation is permitted to do by a tax upon its privilege, amounting to only a few hundred dollars. We hold, therefore, that to tax the foreign corporation for carrying on business under the circumstances shown, by a different and much more onerous rule than is used in taxing domestic corporations for the same privilege, is a denial of the equal protection of the laws, and the plaintiff being in position to invoke the protection of the Fourteenth Amendment, that such attempted taxation under a statute of the State, does violence to the Federal Constitution.

The judgment of the Supreme Court of Alabama is therefore reversed, and the case remanded to that court for further proceedings not inconsistent with this opinion.

Reversed.

Dissenting: THE CHIEF JUSTICE, MR. JUSTICE MCKENNA and MR. JUSTICE HOLMES.

LOUISVILLE & NASHVILLE RAILROAD COMPANY *v.*
GASTON.

CENTRAL OF GEORGIA RAILWAY COMPANY *v.*
SAME.

ERROR TO THE SUPREME COURT OF THE STATE OF ALABAMA.

Nos. 451, 466. Argued December 16, 17, 1909.—No. 466. Submitted January 3, 1910.—Decided February 21, 1910.

Decided on the authority of *Southern Railway Co. v. Greene*, *ante*, p. 400. 49 So. Rep. 412, reversed.

THE facts are stated in the opinion.

Mr. Gregory L. Smith, with whom *Mr. H. L. Stone* was on the brief, for plaintiff in error in No. 451.

Mr. Alfred P. Thom, with whom *Mr. Alexander Pope Humphrey* and *Mr. James Weatherly* were on the brief, for Southern Railway Company, plaintiff in error in No. 450, argued simultaneously herewith.

Mr. Robert E. Steiner, *Mr. Leon Weil*, *Mr. T. M. Cunningham, Jr.*, *Mr. A. R. Lawton* and *Mr. Horace Stringfellow* for plaintiff in error in No. 466, submitted.

Mr. Alexander Garber, Attorney General of the State of Alabama, and *Mr. Samuel Weakley*, with whom *Mr. Henry C. Selheimer* was on the brief, for defendant in error.

MR. JUSTICE DAY delivered the opinion of the court.

No. 451 was argued and submitted with *Southern Railway Co. v. Greene*, No. 450, just decided. Nos. 451 and 466 were argued at the same time in the Supreme Court of Alabama with the case of *Southern Railway Co. v. Greene*, No. 450, and were decided on the authority of that case. That court said (49 So. Rep. 412): "These cases [Nos. 450, 451 and 466] were argued, submitted and considered together, and the points raised by the pleadings in each case are, for convenience, treated of and embodied in one opinion," referring to the opinion in the *Greene case*.

These cases are embraced within the opinion in the *Greene case* in this court. For the reasons stated in that case both of these cases are reversed, and remanded to the Supreme Court of Alabama for further proceedings consistent with that opinion.

Mr. Justice Lurton was not on the bench when Nos. 450 and 451 were argued and submitted. No. 466 was submitted after he took his seat on the bench, and I am permitted to say, for the

reasons stated in the opinion in No. 450, *Southern Railway Co. v. Greene*, he concurs in the judgment in No. 466.

Reversed.

Dissenting: THE CHIEF JUSTICE, MR. JUSTICE MCKENNA and MR. JUSTICE HOLMES.

WRIGHT, COMPTROLLER GENERAL OF THE STATE OF GEORGIA, *v.* GEORGIA RAILROAD AND BANKING COMPANY.

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

No. 70. Argued January 11, 1910.—Decided February 21, 1910.

A special charter to a railroad corporation contained a provision of exemption from taxation as follows: “The stock of the said company and its branches shall be exempt from taxation for and during the term of seven years from and after the completion of the said railroads, or any of them; and after that, shall be subject to a tax not exceeding one-half of one per cent, per annum, on the net proceeds of their investments,” in construing this provision held that:

The words “after that” are equivalent to the word “thereafter” and relate to the entire period of time after the expiration of the seven years of total exemption, and are not to be construed as limited by another provision in the charter for a definite period during which the corporation should have exclusive rights.

The capital stock of a corporation is the capital upon which the business is to be undertaken and is represented by property of every kind acquired by the company, while the shares are mere certificates representing a subscriber’s contribution to the capital stock and measuring his interest in the company. This distinction is obvious, although the words “stock” and “shares” are sometimes used synonymously.

The stock exempted in this case was the capital or property of the corporation and not the shares of stock in the hands of the stockholders.

The Federal courts accord to a judgment of the state court only that effect given to it by the courts of the State in which it was rendered; and where the highest court of a State has held that a judgment in