

## Statement of the case.

in no case in which like action in the latter court could not be re-examined.

The only real difference between the two statutes is that the latter gives an appeal from a decision of the single judge at special term, on a motion for new trial, to the whole court at general term, or secures an original hearing of the motion in general term. This is an advantage to the unsuccessful party not formerly enjoyed, but it makes no changes as to re-examination upon appeals or writs of error in this court.

The court has considered the motion for a *certiorari* to supply alleged defects in the record; but, after a careful comparison of the suggestions of counsel with the record before us, and the act establishing the Supreme Court for the District of Columbia, we are satisfied that the granting of the motion would avail nothing to the plaintiff in error. It must, therefore, be overruled. And the writ of error must be

DISMISSED FOR WANT OF JURISDICTION

---

LOCKE v. NEW ORLEANS.

1. A statute which simply authorizes the imposition of a tax according to a previous assessment is not retrospective.
2. Every retrospective act is not necessarily an *ex post facto* law.
3. Such laws embrace only such as impose or affect penalties or forfeitures.

THE legislature of Louisiana enacted, A. D. 1850—

“That each of the municipalities of said city shall be and is hereby empowered to levy a tax on capital on the assessment roll for the year 1848, and a tax on capital on the assessment roll for the year 1849: *Provided*, that the taxes on capital on said assessment rolls, for the years 1848 and 1849, shall not exceed the amounts already imposed by existing ordinances of the said municipalities.”

Under the authority of this act the City of New Orleans, having levied a tax on capital owned and employed during

## Opinion of the court.

the years mentioned by Locke, brought suit to enforce its payment. One defence set up was that the act was unconstitutional. The Supreme Court of the State having, on appeal from the District Court, whose judgment it affirmed, decided that it was not, the case was now brought here for review.

*Mr. Janin for the plaintiff in error. No opposite counsel.*

Mr. Justice FIELD delivered the opinion of the court.

The legislature of Louisiana in 1850 passed an act authorizing each of the municipalities of the City of New Orleans to levy a tax on capital within its limits on the assessment rolls of 1848 and 1849, not to exceed the amounts imposed by existing ordinances. The present action was instituted to recover, in part, the amount of the tax levied under this act upon capital owned and employed by the defendant in one of the municipalities. As a defence the defendant, among other things, alleged the unconstitutionality of the act of the legislature authorizing the tax. The District Court, in which the action was brought, gave judgment for the city, and the Supreme Court of the State affirmed the judgment.

The unconstitutionality of the act was asserted from its supposed retroactive operation, upon the notion that the prohibition of the Federal Constitution upon the States to pass an *ex post facto* law extended to all retrospective laws.

There was nothing in the position taken which entitled it to consideration. In the first place the act was not subject to the imputation of being retrospective. It did not operate upon the past, or deprive the party of any vested rights. It simply authorized the imposition of a tax according to a previous assessment. In the second place, even if the law had been strictly retrospective, it would not have been within the constitutional inhibition. *Ex post facto* laws embrace only such as impose or affect penalties or forfeitures; they do not include statutes having any other operation. The term *ex post facto*, literally construed, would apply to any act

---

Statement of the case.

---

operating upon a previous fact, yet the restricted sense stated is the one in which it has always been held. It was the sense in which it was understood at the time the Constitution was adopted, both in this country and in England.\*

JUDGMENT AFFIRMED.

---

STURDY v. JACKAWAY.

**A** final judgment pronounced in an action of ejectment, where the claim of title in fee simple absolute by the parties respectively was the sole subject of controversy, instituted and prosecuted under and according to the forms and in the manner prescribed by the statute laws of the State of Arkansas, that is to say, by a suit between the real litigants by name and where the land is accurately described, is a valid legal bar to a like action subsequently instituted between the same parties for the same lands or premises, involving the same identical title and rights to the possession of such lands or premises and none other.

*Semble.* The doctrine is applicable generally in ejectments, in the form above described, in those States where no provision is made by statute for a subsequent trial.

STURDY brought ejectment against Jackaway in one of the State courts of Arkansas to recover a tract of land in that State, the action being brought not in the English fictitious form used still in some States of the Union, but in the way now more common with us—and which prevails in Arkansas—where the parties sue, as in other cases, in their true names, and where the land claimed is described so as to be capable of complete identification. Judgment was given for the defendant; and the case having gone to the Supreme Court of Arkansas the judgment was there affirmed. He then brought another ejectment for the same premises in the Circuit Court of the United States for the Eastern District of Arkansas, and the defendant having pleaded the former judgment the plaintiff demurred. The judges of the

---

\* 1 Blackstone, 46; *Calder v. Bull*, 3 Dallas, 390.