

that because these shareholders cannot be taxed for their shares, that therefore the corporation itself may not be taxed on its business or property in any possible way? I cannot believe from the decisions of the Supreme Court of the United States on this subject, that such a view could be sustained in that Court. The distinction between the ownership of the shares of the capital stock of corporations, and that of their property, including the franchise itself, has been well established by the Courts, and is now clearly laid down in the elementary works on corporations. That distinction has been practically applied within the last ten years, by the Supreme Court of the United States, in a number of cases involving the right of taxation.

In 1865, the Legislature of the State of New York, passed an Act taxing "all the shares in any of the Banking Associations organized under the Act of Congress, held by any person or body corporate." Under this Act, the State Assessors in Utica, assessed the shares of stock owned by one Van Allen and others in certain National Banks. The payment of the tax was resisted on the ground that the capital of the National Banks consisted in part of United States bonds, which were exempt from taxation, and that the shares of the capital stock of those Banks only represented the capital of the Banks, and consequently a tax on the shares of stock was in effect, a tax on that which they represented, viz., United States bonds upon which no tax could be lawfully imposed. The State Court at Utica decided adversely to this pretension of the defendants, and Van Allen appealed to the Supreme Court of the United States. That Court had already decided, on a previous law of New York, that a tax imposed on the *capital* of the National Banks, could not be maintained. The Act brought before the Court by the Van Allen appeal was a substitute for the one decided to be inoperative. The precise difference between the two Acts was, that in the one, the tax was imposed on the *capital* of the Bank, while in the other it was imposed upon the shares of the capital stock.

After most elaborate and able arguments by distinguished counsel, the Court sustained the decision of the State Court. In delivering the opinion of the Supreme Court of the United States, the learned Justice said, "the tax on the shares is not a tax on the capital of the bank. The corporation is the legal owner of all the property of the bank, real and personal, and within the powers conferred upon it by the charter, and for the purposes for which it was created, can deal