

The Burger Court Opinion Writing Database

Rosewell v. LaSalle National Bank
450 U.S. 503 (1981)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 17, 1981

Re: No. 79-1157 - Edward J. Rosewell, etc.,
et al., v. LaSalle National Bank, etc.

Dear Bill:

I join.

Regards,

WB

Justice Brennan

Copies to the Conference

To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Brennan

Circulated: JAN 8 1981

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1157

Edward J. Rosewell, etc., et al.,
Petitioners,
v.
LaSalle National Bank, Trustee,
etc. } On Writ of Certiorari to
the United States Court
of Appeals for the Sev-
enth Circuit.

[January —, 1981]

JUSTICE BRENNAN delivered the opinion of the Court.

The Tax Injunction Act of 1937 provides that “[t]he district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.” 28 U. S. C. § 1341. The question we must decide in this case is whether an Illinois remedy which requires property owners contesting their property taxes to pay under protest and if successful obtain a refund without interest in two years is “a plain, speedy and efficient remedy” within the meaning of the Act.¹

11

LaSalle National Bank is trustee of a land trust for Patricia Cook,² the beneficial owner of property improved with a 22-unit apartment building in the all-black low-

¹ This Court expressly did not decide whether omission to provide interest on a successful refund application rendered a state remedy not "plain, speedy and efficient," in *Department of Employment v. United States*, 385 U. S. 355, 358 (1966).

² Patricia Cook, the real party in interest, is the beneficial owner of Illinois Land Trust No. 44891, of which LaSalle National Bank serves as trustee. Although not a named party in this litigation, this opinion will nevertheless refer to her as the respondent.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 11, 1981

MEMORANDUM TO THE CONFERENCE

Re: Rosewell v. LaSalle National Bank, No. 79-1157

I expect to have responses in the opinion to John's dissent and will circulate them later today or tomorrow. I do want to point out one typographical error on p. 23 -- the numerical figure should be \$113 million, not \$11 million. The "3" was inadvertently omitted.

Sincerely,



The Conference

— ✓
11. 5, 11, 12, 13, 14, 17, 18, 23, 24

To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall ✓
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Brennan

Circulated:

2nd DRAFT

Recirculated: MAR 13 1961

SUPREME COURT OF THE UNITED STATES

No. 79-1157

Edward J. Rosewell, etc., et al.,
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LaSalle National Bank, Trustee,
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[January —, 1981]

JUSTICE BRENNAN delivered the opinion of the Court.

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¹ This Court expressly did not decide whether omission to provide interest on a successful refund application rendered a state remedy not "plain, speedy and efficient," in *Department of Employment v. United States*, 385 U. S. 355, 358 (1966).

² Patricia Cook, the real party in interest, is the beneficial owner of Illinois Land Trust No. 44891, of which LaSalle National Bank serves as trustee. Although she was not a named party in this litigation, this will nevertheless refer to her as the respondent.

To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshal
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

March 31, 1981

MEMORANDUM TO THE CONFERENCE

From: Mr. Justice Brennan

RE: Holds for Rosewell v. LaSalle National Bank, NO. 79-1157

circulated APR 1 1981

Recirculated:

1) Redd v. Lambert, No. 80-1035

Petitioners brought a §1983 action in Mississippi chancery court, alleging, inter alia, a violation of the Equal Protection Clause, and seeking to enjoin the state tax commission and its members from approving various tax assessments of property. The chancery court found a violation of the federal and state constitutions and entered an injunction against the acceptance and approval of assessment rolls. It subsequently awarded attorneys' fees under §1988 of \$58,000 against the state tax commission. The Mississippi Supreme Court affirmed much of the trial court's injunction decree on state law grounds, but reversed the trial court's award of attorneys fees under §1988. The court reasoned that a §1983 action of this sort brought in federal district court would have been barred by the Tax Injunction Act, 28 U.S.C. §1341, because there was a plain, speedy and efficient remedy in state courts. Therefore, petitioners were barred from bringing a §1983 action in state court, and were not entitled to the benefit of §1988. The court in effect construed the chancery court's disposition of petitioners' state court §1983 action as a disposition pursuant to the state's own non-federal plain, speedy and efficient remedy.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 8, 1981

Re: No. 79-1157, Rosewell v. LaSalle
Nat'l Bank

Dear Bill,

I shall await the dissenting opinion.

Sincerely yours,

P.S.

Justice Brennan

Copies to the Conference-

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LIBRARY OF CONGRESS

✓
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 11, 1981

Re: No. 79-1157, Rosewell v. LaSalle
National Bank

Dear John,

Please add my name to your dissenting
opinion.

Sincerely yours,

P.S.

Justice Stevens

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 12, 1981

Re: 79-1157 - Rosewell v. LaSalle

National Bank

Dear Bill,

Please join me.

Sincerely yours,



Mr. Justice Brennan

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 13, 1981

Re: No. 79-1157 - Rosewell v. LaSalle National
Bank

Dear Bill:

I await the dissent.

Sincerely,

T.M.
T.M.

Justice Brennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 11, 1981

Re: No. 79-1157 - Rosewell v. LaSalle

Dear John:

Please join me in your dissent.

Sincerely,

T.M.
T.M.

Justice Stevens

cc: The Conference

REPRODUCED FROM THE COLLECTION OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 13, 1981

Re: No. 79-1157 - Rosewell v. LaSalle National Bank

Dear Bill:

Although I voted to reverse, my vote rested on a theory different from the one set forth in your opinion. I therefore am hesitant as of now to join the opinion. I may write separately, and, in any event, I shall await the dissent.

Sincerely,

H. A. B.

Mr. Justice Brennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 17, 1981

Re: No. 79-1157 - Rosewell v. LaSalle National Bank

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

cc: The Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

2nd DRAFT

From: Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

Dated: MAP 17 1981

No. 79-1157

Recirculated:

Edward J. Rosewell, etc., et al.,
Petitioners,
v.
LaSalle National Bank, Trustee,
etc.] On Writ of Certiorari to
the United States Court
of Appeals for the Sev-
enth Circuit,

[March —, 1981]

JUSTICE BLACKMUN, concurring.

I join the Court's opinion, but I must confess that in doing so I participate in the decision with a distinct lack of enthusiasm. I am aware of just how frustrating it can be for a conscientious property taxpayer who encounters what appears to him to be unfairness, arbitrariness, delay, and an inadequacy of redress even though he might ultimately prevail on his basic contentions about prevailing property tax assessment and collection methods. Nearly every municipality encounters like criticism. JUSTICE STEVENS' dissent, however, indicates that Cook County's system surely is not one of the better ones.

But the Tax Injunction Act was passed for a specific purpose and I very much doubt that the cure, although it may provide a headache, is worse than the disease.

The Court's opinion demonstrates, I think, that the remedy provided by Illinois law qualifies, though perhaps only barely, as "plain, speedy and efficient," within the meaning of the Tax Injunction Act, and that federal jurisdiction to grant injunctive relief is therefore statutorily barred. Illinois—and particularly Cook County—may have little reason to be proud of the system, but it seems to pass muster under the Act. One might well hope, even though forlornly, that that system and its administration will be improved so that uncomfortable and distressing litigation like this case need not be pursued.

existing

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 9, 1981

79-1157 Rosewell v. LaSalle National Bank

Dear Bill:

You have written a persuasive opinion. As I voted to affirm, however, I will await John's dissent before finally coming to rest.

Sincerely,



Mr. Justice Brennan

lfp/ss

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 16, 1981

79-1157 Rosewell v. LaSalle National Bank

Dear John:

Please join me in your dissent.

Sincerely,

L. Evans

Mr. Justice Stevens

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 9, 1981

Re: No. 79-1157 Rosewell v. LaSalle National Bank

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 8, 1981

Re: 79-1157 - Rosewell v. LaSalle
Nat'l Bank

Dear Bill:

In due course I will circulate a dissent.

Respectfully,



Justice Brennan

Copies to the Conference

REPRODUCED FROM THE COLLECTIO THE MANU
NCE DIVISION

AMERICAN CONFERENCE

Mr. Justice Bowen
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Mr. Justice Stevens

Calculated: MAR 10 '81

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1157

Edward J. Rosewell, etc., et al.,
Petitioners,
v.
LaSalle National Bank, Trustee,
etc. } On Writ of Certiorari to
the United States Court
of Appeals for the Sev-
enth Circuit.

[March —, 1981]

JUSTICE STEVENS, dissenting.

In its discussion of the jurisdictional question presented by this case, the Court correctly assumes that the administration of Cook County's system of taxing real property has violated respondent's federal constitutional rights. The question is whether she must be denied equitable relief in a federal court because Illinois affords her "a plain, speedy, and efficient remedy."

Year after year Cook County requires respondent to pay a tax that is three times as great as the amount actually due and then, after a two-year delay, the county refunds the over-assessment without interest. Because the outcome of this annual ritual is predictable, the taxpayer's remedy is "plain" and because only about 70% of the Nation's litigation is processed more rapidly, the remedy is also "speedy and efficient." That is the consequence of the Court's view that Congress was concerned with nothing more than "minimal *procedural criteria*" when it enacted the Tax Injunction Act.¹ In my

¹“On its face, the ‘plain, speedy and efficient remedy’ exception appears to require a state court remedy that meets certain minimal procedural criteria.” *Ante*, at 8.

"The procedural mechanism for correction of her tax bill remains the same, however, whether interest is paid or not." *Ante*, at 11.

"A procedural interpretation of the phrase 'a plain, speedy and effi-

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

P. (10, 11)

From: Mr. Justice Stevens

Circulated: _____

Recirculated: *4/1/81*

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1157

Edward J. Rosewell, etc., et al.,
Petitioners,
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To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

P. 1, 4

From: Mr. Justice Stevens

Circulated:

Received at the Mass. Inst. of Tech. Mar. 19, 1881

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1157

Edward J. Rosewell, etc., et al.,
Petitioners,
v.
LaSalle National Bank, Trustee,
etc. } On Writ of Certiorari to
the United States Court
of Appeals for the Sev-
enth Circuit,

[March —, 1981]

JUSTICE STEVENS, with whom JUSTICE STEWART, JUSTICE MARSHALL, and JUSTICE POWELL join, dissenting.

In its discussion of the jurisdictional question presented by this case, the Court correctly assumes that the administration of Cook County's system of taxing real property has violated respondent's federal constitutional rights. The question is whether she must be denied equitable relief in a federal court because Illinois affords her "a plain, speedy, and efficient remedy."

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"The procedural mechanism for correction of her tax bill remains the same, however, whether interest is paid or not." *Ante*, at 11.

⁴ "A procedural interpretation of the phrase 'a plain, speedy and effi-