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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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NORTHERN INSURANCE COMPANY OF NEW YORK v. CHATHAM COUNTY, GEORGIA

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 04-1618. Argued March 1, 2006—Decided April 25, 2006

Petitioner insurance company filed this admiralty suit against respondent County seeking damages resulting from a collision between a malfunctioning County drawbridge and a boat insured by petitioner. Granting the County summary judgment, the District Court recognized that Eleventh Amendment immunity from suit does not extend to counties, but relied on Circuit precedent to conclude that sovereign immunity extends to counties and municipalities that, as here, exercise power delegated from the State. The Eleventh Circuit, which was bound by that same precedent, affirmed. It acknowledged that the County did not assert an Eleventh Amendment immunity defense, which would fail because, under other Circuit precedent, the County did not qualify as an "arm of the State." The Court of Appeals nonetheless concluded that common law has carved out a "residual immunity" that protects political subdivisions such as the County from suit.

Held: An entity that does not qualify as an "arm of the State" for Eleventh Amendment purposes cannot assert sovereign immunity as a defense to an admiralty suit. Pp. 3–7.

(a) Immunity from suit "is a fundamental aspect of the sovereignty which the States enjoyed before the ratification of the Constitution, and which they retain today . . . except as altered by the plan of the Convention or certain constitutional Amendments." *Alden* v. *Maine*, 527 U. S. 706, 713. Thus, the phrase "'Eleventh Amendment immunity' . . . is convenient shorthand but something of a misnomer, for the sovereign immunity of the States neither derives from, nor is limited by, the terms of the Eleventh Amendment." *Id.*, at 713. Because preratification sovereignty is the source of immunity from suit, only

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States and arms of the State possess immunity from suits authorized by federal law. See, e.g., id., at 740. Accordingly, sovereign immunity does not extend to counties, see, e.g., Lake Country Estates, Inc. v. Tahoe Regional Planning Agency, 440 U.S. 391, 401, and n. 19, even when they "exercise a 'slice of state power,'" id., at 401. The County argues unconvincingly that this Court has recognized a distinct "residual" immunity that permits adoption of a broader test than it applies in the Eleventh Amendment context to determine whether an entity is acting as an arm of the State entitled to immunity. The Court has referenced only the States' "residuary and inviolable sovereignty" that survived the Constitution. See, e.g., Federal Maritime Comm'n v. South Carolina Ports Authority, 535 U.S. 743, 751. Because the County may claim immunity neither based upon its identity as a county nor under an expansive arm-of-the-State test, it is subject to suit unless it was acting as an arm of the State, as delineated by this Court's precedents, in operating the drawbridge. E.g., Alden, supra, at 756. The County conceded below that it was not entitled to Eleventh Amendment immunity, and both the County and the Eleventh Circuit appear to have understood this concession to be based on the County's failure to qualify as an "arm of the State" under this Court's precedent. Moreover, certiorari was granted in this case premised on the conclusion that the County is not an arm of the State for Eleventh Amendment purposes, and this Court presumes that to be the case. The County's concession and this Court's presumption are dispositive. Pp. 3-5.

(b) The County's alternative argument that the Court should recognize a distinct sovereign immunity against in personam admiralty suits that bars cases arising from a county's exercise of core state functions with regard to navigable waters is rejected. Such recognition cannot be reconciled with the Court's precedents, which applied the general principle that sovereign immunity does not bar a suit against a city to an admiralty suit as early as Workman v. New York City, 179 U.S. 552, 570. The Court disagrees with the County's contention that Workman does not govern the instant case under Ex parte New York, 256 U.S. 490, 498, where, in extending sovereign immunity beyond cases "in law or equity" to admiralty cases, the Court concluded that Workman involved only substantive admiralty law, not the power of the Court to exercise jurisdiction over a particular defendant. But Workman did so precisely because the Court there held that admiralty courts have jurisdiction over municipal corporations. See 179 U.S., at 565. The Workman Court accordingly distinguished between the question before it—whether admiralty courts may, notwithstanding state law, "redress a wrong committed by one over whom such courts have adequate jurisdiction," id., at 566, such as a municipal corporation—

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and the question *not* before it, but before the Court in *Ex parte New York*—whether admiralty courts may "give redress in a case where jurisdiction over the person or property cannot be exerted," 179 U. S., at 566. In the former circumstance, the court should apply general admiralty principles, while in the latter the court lacks the power to do so. See *id.*, at 570; *Ex parte New York, supra*, at 499–500, 502–503. Because here, as in *Workman* and in contrast to *Ex parte New York*, the defendant was an entity generally within the District Court's jurisdiction, *Ex parte New York* is inapposite, and *Workman* compels the conclusion that the County is unprotected by sovereign immunity. Pp. 5–7.

129 Fed Appx. 602, reversed.

THOMAS, J., delivered the opinion for a unanimous Court.