

Opinion of the Court.

principle which the same court had previously laid down in *Commissioners of Sinking Fund v. Green & Barren River Navigation Co.*, 79 Kentucky, 73, and *Commonwealth v. Owensboro &c. Railroad*, 95 Kentucky, 60, that a distinct contract contained in a charter was not subject to the act of 1856. Indeed, I do not understand upon what other theory a positive acceptance of the taxation imposed by the Hewitt Act was required of these banks.

DEPOSIT BANK OF OWENSBORO v. OWENSBORO.

ERROR TO THE COURT OF APPEALS OF THE STATE OF KENTUCKY.

No. 149. Argued February 27, 28, 1899. — Decided April 3, 1899.

Citizens' Savings Bank of Owensboro v. Owensboro, ante, 636, followed.THIS case was argued with the *Citizens' Savings Bank case*.*Mr. W. T. Ellis* for plaintiff in error.*Mr. Chapeze Wathen* and *Mr. J. D. Atchison* for defendants in error.

MR. JUSTICE WHITE delivered the opinion of the court.

The relief sought by the plaintiff in error was the nullity of certain taxes levied by the city of Owensboro for the years 1893 and 1894. The grounds upon which this relief was prayed are in all material respects like unto those relied on in the two cases against the city of Owensboro, just decided. The charter and an amendment extending the same were both enacted after the act of 1856.

Indeed, this case along with the other two were disposed of by the Kentucky Court of Appeals in the same opinion, because of the identity of the questions presented.

For reasons given in the opinion in *Citizens' Savings*

Opinion of the Court.

Bank of Owensboro v. Owensboro, ante, 636, this term, the decree is *Affirmed.*

DEPOSIT BANK OF OWENSBORO v. DAVIESS COUNTY. No. 150. Argued with No. 669, ante, 636, and by the same counsel. Decided April 3, 1899. MR. JUSTICE WHITE: By a written stipulation it is agreed that this cause abide the result of No. 149, *Deposit Bank of Owensboro v. Owensboro*. The decree in that case having been affirmed, the same result is therefore necessary in this, and accordingly the decree of the Court of Appeals of Kentucky in this case is also

Affirmed.

FARMERS' AND TRADERS' BANK OF OWENSBORO v. OWENSBORO.

ERROR TO THE COURT OF APPEALS OF THE STATE OF KENTUCKY.

No. 151. Argued February 27, 28, 1899. — Decided April 3, 1899.

Citizens' Savings Bank v. Owensboro, ante, 636, followed.

THIS case was argued with the *Citizens' Savings Bank case*.

Mr. W. T. Ellis for plaintiff in error.

Mr. Chapeze Wathen and *Mr. J. D. Atchison* for defendants in error.

MR. JUSTICE WHITE delivered the opinion of the court.

The plaintiff in error was chartered by the legislature of Kentucky in 1876. The charter limited the taxing power to fifty cents on each one hundred dollars of capital stock, during the life of the corporation, which was fixed at twenty-five years. This suit was commenced by petition asserting the nullity of certain taxes levied by the city of Owensboro for the years 1893 and 1894. The petition was twice amended. The cause of action alleged was, in every material respect,