

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.*

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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,

## Statement of the Case.

the same as that relied on in the case of *Citizens' Savings Bank of Owensboro v. Owensboro*, No. 669, *ante*, 636. For this reason the opinion in that case disposes of all the issues arising in this, and for the reasons therein given the decree of the Court of Appeals of Kentucky in this case rendered is

*Affirmed.*

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OWENSBORO NATIONAL BANK *v.* OWENSBORO.

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

No. 148. Argued February 27, 28, 1899.—Decided April 3, 1899.

A State is wholly without power to levy any tax, either direct or indirect, upon national banks, their property, assets or franchises, except when permitted so to do by the legislation of Congress.

Section 5219 of the Revised Statutes is the measure of the power of States to tax national banks, their property or their franchises, that power being confined to a taxation of the shares of stock in the names of the shareholders, and to an assessment of the real estate of the bank.

The taxing law of the State of Kentucky, under the provisions of which the tax in controversy in this case was imposed, is beyond the authority conferred by Congress on the States, and is void for repugnancy to that act.

The tax here complained of having been assessed on the franchise or intangible property of the corporation, was not within the purview of the authority conferred by the act of Congress, and was therefore illegal.

THIS suit was originally instituted in a court of the State of Kentucky by the plaintiff in error, the Owensboro National Bank. The relief prayed was that the city of Owensboro and its tax collector Simmons be perpetually restrained from enforcing the collection of alleged "franchise" taxes for the years 1893 and 1894, claimed by the defendants to have been assessed under authority of a revenue act of the State of Kentucky enacted November 11, 1892, as amended. The taxes in question were laid upon the amount fixed by the state board of valuation and assessment provided for in the act, which valuation equalled the combined sum of the par of the capital stock of the bank, its surplus and undivided