

Kentucky Bank Tax Cases.

dend, we think the payment and receipt of a dividend under the circumstances detailed in the question certified do not permit of its recovery back by a receiver appointed upon the subsequent insolvency of the bank.

The facts in the various English cases cited by counsel for complainant are so entirely unlike those which exist in this case that no useful purpose would be subserved by a reference to them. Not one holds that a dividend declared under such facts as this case assumes can be recovered back in such an action as this.

We answer the first question in the negative. The second question relates to the jurisdiction of a court of equity over an action of this nature. It is evident that the question was propounded to meet the case of an affirmative answer to the first question.

In that event the second would require an answer. As we answer the first question in the negative, and the second question was scarcely touched upon in the argument, we think it unnecessary to answer it in order to enable the court below to proceed to judgment in the case.

The first question will be certified in the negative.

KENTUCKY BANK TAX CASES.

There were twenty-six of these cases in all. Of these, five were decided on the 3d of April, 1899, and are reported in volume 173, U. S. Reports, viz.: CITIZENS' SAVINGS BANK OF OWENSBORO *v.* OWENSBORO, at page 636; DEPOSIT BANK OF OWENSBORO *v.* OWENSBORO, at page 662; DEPOSIT BANK OF OWENSBORO *v.* DAVIESS COUNTY, at page 663; FARMERS' AND TRADERS' BANK OF OWENSBORO *v.* OWENSBORO, at page 663; OWENSBORO NATIONAL BANK *v.* OWENSBORO, at page 664, five were affirmed May 15, 1899, by a divided court, viz.: No. 356, STONE *v.* BANK OF KENTUCKY; No. 357, LOUISVILLE *v.* BANK OF KENTUCKY; No. 360, STONE *v.* LOUISVILLE BANKING COMPANY; No. 361, LOUISVILLE *v.* LOUISVILLE BANKING COMPANY; No. 387,

Statement of the Case.

STONE *v.* DEPOSIT BANK OF FRANKFORT, all argued February 28 and March 2, 1899, and the others are reported below.

STONE, Auditor, *v.* FARMERS' BANK OF KENTUCKY.

FARMERS' BANK OF KENTUCKY *v.* STONE,
Auditor.

Nos. 385, 386. Argued February 28, March 2, 1899. — Decided May 15, 1899.

The decree below, so far as it granted the relief prayed as against the defendants other than the city of Georgetown and the county of Scott, is affirmed by a divided court; and, so far as it adjudicated against the complainant and in favor of the defendants the city of Georgetown and the county of Scott, those defendants not having been parties or privies to the judgments pleaded as *res judicata*, is affirmed upon the authority of the decision in *Citizens' Savings Bank of Owensboro v. Owensboro*, 173 U. S. 636.

THESE appeals were taken from a decree rendered in a suit in equity brought by the Farmers' Bank of Kentucky against Samuel H. Stone, auditor, Charles Findly, secretary of State, and G. W. Long, treasurer of the Commonwealth of Kentucky, constituting a state board of valuation and assessment; the board of councilmen of the city of Frankfort; the county of Franklin; the city of Henderson; the county of Henderson; the city of Georgetown; and the county of Scott. The object of the bill and of an amended and supplemental bill was to restrain the valuation of the franchise of the complainant under the provisions of a revenue act of Kentucky, enacted November 11, 1892, as also the certification of such valuation and the collection of taxes thereon for the years 1895, 1896, 1897 and 1898.

It was averred in the bill that the complainant was chartered on February 16, 1850, to endure until May 1, 1880; and that in and by the fifteenth section of the charter of complainant it was provided as follows:

“It shall be the duty of the cashier of the principal bank,