

Opinion of the Court.

to the Comptroller, to whom Congress has entrusted the power to distribute the assets of a suspended bank among those entitled thereto.

The decree is reversed to the extent indicated, and the cause is remanded for further proceedings not inconsistent with this opinion.

Reversed.

EARLE *v.* CONWAY.

ERROR TO THE SUPREME COURT OF PENNSYLVANIA

No. 219. Argued April 11, 1900.—Decided May 14, 1900.

A receiver of a National Bank may be notified, by service upon him of an attachment issued from a state court, of the nature and extent of the interest sought to be acquired by the plaintiff in the attachment in the assets in his custody; but, for reasons stated in *Earle v. Pennsylvania*, *ante*, 449, such an attachment cannot create any lien upon specific assets of the bank in the hands of the receiver, nor disturb his custody of those assets, nor prevent him from paying to the Treasurer of the United States, subject to the order of the Comptroller of the Currency, all moneys coming to his hands, or realized by him as receiver from the sale of the property and assets of the bank.

THE case is stated in the opinion.

Mr. John G. Johnson and *Mr. Asa W. Waters* for plaintiff in error. *Mr. W. H. Addicks* was on *Mr. Waters'* brief.

Mr. James C. Stillwell for defendant in error.

MR. JUSTICE HARLAN delivered the opinion of the court.

This case differs somewhat in its facts from those in *Earle v. Pennsylvania*, *ante*, 449. It appears that on February 24, 1898, the appellee Conway, in an action of assumpsit in the Court of Common Pleas of the county of Philadelphia, ob-

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tained a judgment against one John G. Schall for \$1012.43. Upon that judgment a writ of attachment was issued and served May 24 and 25, 1898, upon the Chestnut Street National Bank of Philadelphia and upon Earle, receiver, as garnishees—the receiver having been appointed January 29, 1898—commanding them to show cause on a day named why the judgment against Schall, with costs of writ, should not be levied of his effects in their hands.

The bank and the receiver entered their appearance as defendants and garnishees “for the purpose only of moving said court to set aside the writ of summons in attachment sur-judgment against him and them, and to dismiss and vacate all proceedings in attachment therein against him or them.” That motion was made upon the ground that the Court of Common Pleas was without jurisdiction under section 5242 of the Revised Statutes of the United States. The motion was denied, and the order of the Court of Common Pleas was affirmed by the Supreme Court of Pennsylvania.

We are of opinion that it was not error to deny the motion to set aside the service of the writ of attachment on the bank and the receiver. No sound reason can be given why the receiver of a national bank may not be notified by service upon him of an attachment issued from a state court of the nature and extent of the interest asserted or sought to be acquired by the plaintiff in the attachment in the assets in his custody. But for the reasons stated in *Earle v. Pennsylvania*, such an attachment cannot create any lien upon specific assets of the bank in the hands of the receiver, nor disturb his custody of those assets, nor prevent him from paying to the Treasurer of the United States, subject to the order of the Comptroller of the Currency, all moneys coming to his hands or realized by him as receiver from the sale of the property and assets of the bank. After the service of the attachment upon the receiver it became his duty to report the facts to the Comptroller, and it then became the duty of the latter to hold any funds coming to his hands through the Treasurer of the United States as the proceeds of the sale of the bank's assets subject to any interest which the plaintiff may have legally acquired therein as against

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his debtor under the attachment issued on the judgment in his favor in the state court.

As the judgment of the Supreme Court of Pennsylvania goes no further than to sustain the right of the plaintiff to have the attachment served upon the receiver as garnishee, it is

Affirmed.

MR. JUSTICE WHITE dissented.

MOTES *v.* UNITED STATES.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ALABAMA.

No. 257. Submitted April 23, 1900. — Decided May 21, 1900.

By the Revised Statutes of the United States it is provided: “§ 5508. If two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than five thousand dollars and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office or place of honor, profit or trust created by the Constitution or laws of the United States. § 5509. If in the act of violating any provision in either of the two preceding sections, any other felony or misdemeanor be committed, the offender shall be punished for the same with such punishment as is attached to such felony or misdemeanor by the laws of the State in which the offence is committed.” Several persons were indicted under the above provisions in the Circuit Court of the United States for the Northern District of Alabama for the crime of murder committed in execution of a conspiracy to injure, oppress, threaten and intimidate one Thompson because of his having informed the United States authorities of violations by the conspirators of the laws of the United States relating to distilling. In Alabama murder in the first degree is punishable by death or imprisonment for life at the discretion of the jury. At the preliminary trial before a United States commissioner, Taylor, one of the accused, testified and his evidence was put in writing and signed by him. It was sufficient, if accepted, to estab-