

MURRAY, McSWEEN, AND PATTON, AS THE STATE
DISPENSARY COMMISSION, *v.* STATE OF SOUTH
CAROLINA *ex rel.* RAY, TRUSTEE.

ERROR TO THE SUPREME COURT OF THE STATE OF SOUTH
CAROLINA.

No. 605. Argued February 26, March 1, 1909.—Decided April 5, 1909.

Murray v. Wilson Distilling Co., *ante*, p. 151, followed as to the Federal questions involved in this proceeding.

THE facts are stated in the opinion.

Mr. W. F. Stevenson, with whom *Mr. D. S. Matheson* was on the brief, for plaintiffs in error.

Mr. D. C. Ray, for defendants in error, submitted.

MR. JUSTICE WHITE delivered the opinion of the court.

This is a proceeding in mandamus commenced in the Supreme Court of the State of South Carolina to compel the commission appointed under the authority of the act of the general assembly of that State, approved February 16, 1907, providing for the winding up of the affairs of the state dispensary, to comply with an act of the general assembly, approved February 24, 1908, requiring the payment of a certain judgment out of the funds in the hands of the commission. It was set up in justification of the refusal to obey the command of the statute that the commission was restrained and enjoined from paying out the fund by orders of the Circuit Court of the United States, made in the suits of the Wilson Distilling Company and the Fleischmann Company, the validity of which orders was the subject of consideration in the case of *Murray v. Wilson Distilling Company*, No. 625, this term, just decided. Upon the authority of the decision in *State ex rel.*

J. F. Lyon v. W. J. Murray and others, 79 S. Car. 316, the Supreme Court of South Carolina held that the return of the commission was insufficient, and ordered a peremptory mandamus to issue. A writ of error was thereupon prosecuted from this court, upon the theory that the court below had declined to give full faith and credit to the orders and decrees of the Circuit Court of the United States in the cases mentioned.

The determination of the questions of a Federal nature, arising in this case, is controlled by the decision made in *Murray v. Wilson Distilling Company*, No. 625, this term, *ante*, p. 151, heretofore referred to, and, upon the authority of that decision, the judgment of the Supreme Court of South Carolina is

Affirmed.

THE CHIEF JUSTICE took no part in the consideration or disposition of this case.

SILER *et. al.*, CONSTITUTING THE RAILROAD COMMISSION OF KENTUCKY, *v.* LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF KENTUCKY.

No. 521. Argued February 24, 25, 26, 1909.—Decided April 5, 1909.

Where the Federal questions raised by the bill are not merely colorable but are raised in good faith and not in a fraudulent attempt to give jurisdiction to the Circuit Court, that court has jurisdiction, and can decide the case on local or state questions only, and it will not lose its jurisdiction of the case by omitting to decide the Federal questions or deciding them adversely to the party claiming their benefit. Where the bill not only alleges that the statute creating the commission, but also the order of the commission sought to be enjoined, deprives complainant of its property without due process of law, and also violates other provisions of the Constitution, the Circuit Court obtains