

THE DAILY PHOENIX.



DAILY PAPER \$10 A YEAR.

"LET OUR JUST CENSURE ATTEND THE TRUE EVENT."

TRI-WEEKLY \$7 A YEAR.

BY J. A. SELBY.

COLUMBIA, S. C., FRIDAY MORNING, AUGUST 18, 1865.

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BY JULIAN A. SELBY.

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Important Decision.
The Rights of the United States to the Cotton and other Property of the late Confederate Authorities in Europe.

In the London Court of Chancery, July 26, before Vice-Chancellor Sir W. P. Wood, the important case of the United States of America vs. Prioleau was decided.

This was a motion on behalf of the plaintiffs, suing under their corporate title of "the United States of America," for an injunction to restrain the delivery to the defendant Prioleau and others, who hold the bills of lading of certain bales of cotton, shipped by the American Texas, in the first instance, and recently arrived at Liverpool from Havana. The motion also sought to restrain the last named defendants from obtaining possession of or parting with the cotton, and from negotiating or parting with the bills of lading thereof, and generally from dealing with the cotton otherwise than under the direction of the plaintiffs—the United States of America.

THE POINT AT ISSUE.
The case was one of great public interest, and raised the following most important question, viz: whether the United States Government, in resuming their authority over the Confederate States, are entitled to the property in specie of those States, wherever found, without regard to any agreements entered into by citizens of this country with the *de facto* Confederate Government, or rights acquired in respect of such property. The bill, after stating the rebellion against the United States Government and the usurpation of the authority of the plaintiff by divers persons forming themselves into a pretended Government, under the style of the "Government of the Confederate States," stated that such pretended Government, under their usurped authority, possessed themselves of moneys, goods and treasure which were part of the public property of the plaintiffs, and employed them in aid of the rebellion. Such pretended Government some time since caused a large quantity of cotton which had been acquired in exercise of their usurped authority to be shipped from Texas to Havana, with a view to its being shipped thence to England, and sold in this country on behalf of the Confederate Government.

HISTORY OF THE DISPUTED SHIPMENT.
Among other shipments, and that which formed the subject matter of this suit, was one of 1,350 bales of cotton in the Aline. On the 10th of June, 1865, the Aline sailed under English colors from Havana, with this cargo of cotton, which was consigned to the defendants, Prioleau and others, who carry on business at Liverpool as "Fraser, Trenholm & Co." The ship, which was consigned to the defendants, (Messrs. Malcolson,) has recently arrived at Liverpool, and is now lying in the Mersey Docks. The bill proceeds to state that the rebellion being now at an end, and the so-called Confederate Government dissolved, all the joint or public property of the persons constituting such pretended Government (including the cotton shipped by the Aline,) had been expressly ceded to the plaintiffs, and that the cotton thus consigned to Fraser, Trenholm & Co., was now the absolute property of the plaintiffs, and ought to be delivered up to them. Notice has been served by the United

States Consul at Liverpool upon Fraser, Trenholm & Co., requiring them not to part or deal with the cotton without the consent of the plaintiffs. The defendants, the consignees of the cotton and of the ship, refused, however, to deliver up the cotton to the plaintiffs, and in particular the defendant Prioleau claimed to be entitled to the cotton, which had been consigned to his firm by Fraser & Co., his agents at Havana, under an arrangement with the *de facto* Confederate Government before the submission of Kirby Smith to the Federals. The shipment of this cotton formed one of a long series of transactions between Prioleau and the Confederate Government, under which he had incurred very heavy liabilities, (to the extent of £20,000,) and to the realization of this cotton he looked for satisfaction of those liabilities. Under these circumstances, the bill was signed, and the plaintiff now moved for an injunction.

ARGUMENTS PRO AND CON.
The Attorney-General, Mr. Gifford, Q. C., and Mr. Druce, appeared for the plaintiffs in support of the motion, and contended that the Confederate Government, being in the position of rebels and mere wrong-doers, had no power to enter into any contract which could give the defendants, who had full notice of the rights of the United States, and of the rebellion of the Confederates, any rights as against the plaintiffs, the lawful owners.

Mr. Rohl, Q. C., Mr. W. M. James, Q. C., Mr. C. Milward, Q. C., and Mr. Charles Hall, on behalf of the principal defendants, contended that the plaintiffs were entitled to stand for the purposes of this suit in the position of the Confederate Government, and in no higher position. If they claimed as State property this cotton now in the hands of British subjects, they could only obtain it on the terms of satisfying all engagements made in respect of it by their predecessors, the Confederate Government, with such British subjects. It was, indeed, a most sterling and unheard of proposition that a Government which succeeded in conquering and displacing a *de facto* Government could follow the property of the displaced Government into this country and obtain possession of it from British subjects, who had entered into a fair, legal contract, with the *de facto* Government, and acted on the faith of such contract. No such right had ever been asserted by the Bourbon Government after the fall of Napoleon and the termination of the Hundred Days, or even by the King of the Two Sicilies after the deposition of Murat. Further than this, it had been recently laid down by Lord Chancellor Westbury, in "H. Chavasse," that there was nothing illegal in blockade running. Persons might take their chance, and run the blockade if they could. If caught, they must bear the consequences; but if they succeeded in escaping from the blockading force, then the cargo, when it came to this country, stood upon the same footing as if it had been consigned in the ordinary mercantile course. At all events, it was a new doctrine altogether that this court ought to assist the blockading powers, and help them to confiscate in this country property which they were not active or strong enough to stop in the act of running the blockade. The defendants had a lien upon the cotton to the extent of £20,000, and the court ought not to interfere unless the existence of such lien was negatived by the evidence now adduced.

Mr. Osborne, Q. C., Mr. W. F. Robinson and Mr. North, appeared for the other defendants; Mr. Gifford, Q. C., replied.

DECISION OF THE COURT.
The Vice-Chancellor said, that upon the first question—the right of the United States to this cotton—he had no doubt, though whether or not the plaintiffs must take it, subject to the agreement between the *de facto* Government and Mr. Prioleau, was a more serious question. The cotton in question was admittedly the result of funds which had been raised by the *de facto* Government of the Southern States by taxation, for the purpose of carrying on the war against the Northern States. It was not the property

of any individual State of America; if it had been, the peculiar Constitution of the United States in this respect might have led to various difficult and complicated questions. But the money with which that cotton was purchased was levied in more than one State, and was the property of the Government of the revolting Confederation. Now, that Government was not a mere band of marauders, plundering a country and living upon the plunder, but an actual and *de facto* Government, exercising authority, and as such receiving submission. This *de facto* Government having been displaced, the Government of the United States, which had restored its authority over the seceding States, stood exactly in the position of those who had acquired the cotton by the taxation of the subjects of the several States, formerly the Confederate States, but now undoubtedly under the control of the present plaintiffs, the United States Government. All the authorities were clear upon this point, viz: that when a *de facto* Government had been superseded or put an end to, the displacing Government succeeded to all the rights of the *de facto* Government. But, subject to any argument that might be adduced at the hearing of the cause, he did not feel much doubt upon the second branch of the question, and the United States Government, in taking this cotton, must take it subject to all agreements made in respect of it by the *de facto* Government. It was not the case which had been suggested on behalf of the plaintiffs, of persons taking property from a wrongdoer or trespasser with knowledge of the trespass. The courts of every country recognized a *de facto* Government, and they could not allow the rights and contracts acquired by their own subjects with an existing Government to be disregarded. The displacing Government succeeded to the property of the displaced Government in the state in which it was found, and subject to all agreements affecting it. If the theory now advanced by the plaintiffs were sound, he did not see why they might not have filed a bill for the purpose of having the Aline while she was lying in Southampton Harbor with the Confederate flag flying, delivered up to them. The United States Government could only claim this cotton, because it had been raised by the *de facto* Confederate Government, not by robbery or violence, but in the ordinary course of taxation, and because they (the United States Government) were now the *de facto* Government of those States in which it had been raised. His Honor, after some further observations as to the principle upon which the proceeds would have to be divided, and the numerous questions that would arise at the hearing, said that he must treat the defendants, Fraser, Trenholm & Co., as entitled to the £20,000, the amount of the liabilities to which they swore they were subject. Reserving, however, all these questions until the hearing, the order upon the present occasion would be to appoint the defendant Prioleau receiver, on his giving security for £20,000, or undertaking to pay that sum into court on or before the first day of Michaelmas term.

The Abbeville District Bible Society met at the Methodist Church in this village, on Wednesday of last week. The meeting was a pleasant and harmonious one. Mr. Ferrin, as Chairman, presided with all the grace and dignity for which he is so characteristic. A very able address was delivered by President E. L. Patton, of Erskine College, Due West. Hon. A. Burt with F. A. Conner, Esq., as his alternate, was unanimously requested to deliver an address before the next annual meeting of the Society.

The Abbeville candidate for Governor of Ohio, General Cox, married the daughter of the late President Finney, formerly of Obediin College, in which blacks and whites are admitted on equal terms. Greeley cites this fact as a proof that he must be sound on the nigger voting question. Change of position, according to the Richmond Times, is a white man driving a cab, with a big nigger inside.

Headqrs 4th Sub-District,
MIL. DIST. OF CHARLESTON, S. C.,
COLUMBIA, S. C., Aug. 7, 1865.

GENERAL ORDERS NO. 12.
THE Mayor and City Council of Columbia are hereby authorized to collect all taxes assessed for the benefit of the city.
II. The funds collected in such manner will be expended for the support of the poor and destitute, and for the Water Works and other necessities. By order of
Lieut. Col. N. HAUGHTON, Com'g.
JOHN WALTON, Lieut. and A. A. G.
Aug 18

Headqrs. Mil. District of Charleston,
CHARLESTON, S. C., August 10, 1865.

GENERAL ORDERS, NO. 87.
ORDERS having been received at these Headquarters for the muster out of the 54th and 50th Mass. Vols., and 1st Ohio Vet. Vol. Cavalry, all Officers and Enlisted Men of these Regiments will immediately rejoin their commands. The 5th Mass. Vols. will be rendezvoused at Mount Pleasant, the 55th Mass. Vols. at Orangeburg, and the Battalion of the 1st Ohio Vet. Vol. Cavalry, serving in this District, at the Charleston Race Course.
By command of
BREVET MAJ. GEN. JOHN P. HATCH.
LEONARD B. PERRY, A. A. G.
Official: E. HARRIS JEWETT, Lieut. 55th Mass. Vols., A. A. G. Aug 16 3

Headqrs. Mil. Dist. of Charleston,
CHARLESTON, S. C., Aug. 5, 1865.

GENERAL ORDERS, NO. 85.
The following Paragraph from the Revised Army Regulations (edition of 1863,) is hereby published for the information and guidance of all concerned.
Any officer who shall fail to comply with said Paragraph will subject himself to trial for disobedience of orders.
"Par. 463. Officers on detached duty will report, according to the Commanders of their Regiments or Corps, and to the Adjutant General, their stations, the nature of their duties, and the authority placing them thereon; likewise any change of address." By command of
BREV. MAJ. GEN. J. P. HATCH.
LEONARD B. PERRY, A. A. G.
Official: E. HARRIS JEWETT, 1st Lieut. and A. A. G. Aug 16 3

Headqrs. Mil. District of Charleston,
CHARLESTON, S. C., August 3, 1865.

GENERAL ORDERS, NO. 81.
THE following Circular from the War Department is hereby published for the information and guidance of all concerned. Strict compliance with its provisions will be enforced.
WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, February 6, 1864.
CIRCULAR NO. 13.
In future each Officer in charge of enlisted men absent from their regiments, will report at the end of every month to the Regimental or Company Commanders of the men under their charge, whether they are sick, in confinement, in hospital, on detached service, near the station, the duties which each man is performing, and the authority for detaining him, giving the number and date of the order, also whether they are sick, or fit for service, and any other particulars about them which may be necessary for the information of their commanding Officers in keeping a correct account of the pay, clothing, station, duties, &c., of each soldier. Without such reports men cannot receive pay arrearages due them.
E. D. TOWNSEND, A. A. G.
By command of
BREVET MAJ. GEN. JOHN P. HATCH.
LEONARD B. PERRY, A. A. G.
Official: E. HARRIS JEWETT, 1st Lieut. and A. A. G. Aug 16 3

Headqrs. Dept. of South Carolina,
HILTON HEAD, S. C., August 2, 1865.

GENERAL ORDERS, NO. 11.
THE following General Orders from the War Department, are hereby published for the information of this command:
WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 20, 1865.
GENERAL ORDERS, NO. 123.
I. Commanders of Military Departments are authorized to grant leaves of absence for twenty days to officers serving under them. A Division Commander may, on the recommendation of the Department Commander, extend such leave thirty days. Further extension, if recommended, must be forwarded for the decision of the proper authority to the Adjutant-General of the Army. In other respects, Article XXI, General Regulations of the Army, will govern the subject of leaves of absence to officers.
II. Division Commanders are alone authorized to discharge regimental officers of volunteers who tender their resignations through the proper channels, according to existing regulations.
III. Unless in cases of special assignment made in orders from the Adjutant-General's Office, which will not be changed without authority from the same source, Division Commanders are authorized to assign general and staff officers, on duty under them, in such way as their services may be most required.
IV. Monthly Returns of Military Departments will be sent direct to the Adjutant-General of the Army and to Division Headquarters. Division Returns, except of the staff at Headquarters, will not be required by the Adjutant-General of the Army.
By order of the Secretary of War,
E. D. TOWNSEND, A. A. G.
By command of
MAJ. GEN. Q. A. GILMORE.
W. L. M. BURGER, A. A. G.
Official: E. HARRIS JEWETT, Capt. 35th U. S. C. T. A. Aug 16 3

Headqrs Dept of South Carolina,
HILTON HEAD, S. C., JULY 20, 1865.

GENERAL ORDERS NO. 9.
IT is announced, for the information and government of this command, that BENJAMIN F. PERRY, of South Carolina, has been appointed, by the President, Provisional Governor of the State of South Carolina, with authority and instructions, "at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a Convention, composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the Constitution thereof; and with authority to exercise, within the limits of said State, all the powers necessary and proper, to enable such loyal people of the State of South Carolina to restore said State to its constitutional relations to the Federal Government, and to present such a Republican form of State Government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection and domestic violence; provided, that in any election that may hereafter be held for choosing delegates to any State Convention as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such Convention, unless he shall have previously taken and subscribed the oath of amnesty, as set forth in the President's proclamation of May 29, A. D. 1865, and is a voter qualified as prescribed by the Constitution and laws of the State of South Carolina in force immediately before the seventeenth (17th) day of November, A. D. 1860, the date of the so-called Ordinance of Secession; and the said Convention, when convened, or the Legislature that may be thereunto assembled, will prescribe the qualification of electors, and the eligibility of persons to hold office under the Constitution and laws of the State, a power the people of the several States composing the Federal Union have rightfully exercised from the origin of the Government to the present time."
It is, therefore, ordered, that all officers and other persons in the United States military service, within the State of South Carolina, aid and assist Governor Perry in carrying into effect the foregoing instructions, and they are enjoined to abstain from, in any way, hindering, impeding or discouraging the loyal people of the State from the organization of a State Government, as hereinbefore authorized and directed.
All orders and instructions now in operation throughout this Department, whether emanating from these headquarters, or from Headquarters Department of the South, that are not inconsistent with the foregoing, shall continue in force as heretofore, throughout the State of South Carolina.
Every needful facility for taking the amnesty oath will be afforded by the military authorities, on forms heretofore supplied for that purpose.
Hereafter Provost Marshals and Assistant Provost Marshals will constitute the only military officers entitled to administer the amnesty oath, a certified copy of which will, in all cases, be furnished to the individual taking it. The original oaths will be transmitted, semi-monthly, by the officer administering the same, to the Provost Marshal General at these Headquarters, by whom they will be recorded in a book kept for that purpose, and then forwarded to the Secretary of State.
Persons applying for Executive clemency will send their petition (with a certified copy of the Amnesty Oath attached,) to the President, through the Provisional Governor at Greenville, South Carolina.
By command of
MAJ. GEN. Q. A. GILMORE.
Official: W. L. M. BURGER, A. A. G. Aug 16 3

Headqrs Mil. Div. of the Atlantic,
JULY 18, 1865.

GENERAL ORDERS NO. 21.
IN accordance with instructions from the War Department, the following order is promulgated to this command.
By command of
MAJ. GEN. BLEADE.
GEO. D. RUGGLES, Ass't Adj't Gen.

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 14, 1865.

SPECIAL ORDERS, NO. 370.
[Extract.]
17. By direction of the President, the following officers are hereby dishonorably dismissed the service of the United States, with forfeiture of all pay and allowances, of dates set opposite their respective names, for violation of orders and neglect of duty, in allowing their regiments to disband, thus delaying the payments and final discharge thereof, embarrassing the public service, and causing suffering and inconvenience to the enlisted men under their control:
Colonel I. C. Edwards, 32d Massachusetts Volunteers, July 1, 1865.
Colonel W. S. King, 4th Massachusetts Heavy Artillery, June 21, 1865.
Commanding Generals of Military Divisions and Departments will promulgate this order to their respective commands.

By order of the Secretary of War:
E. D. TOWNSEND, A. A. G. Aug 16 3

Taxes! Taxes!
IT is absolutely necessary that the CITY TAXES be collected without further delay. Mr. Daniels will be found at the City Hall, or Odd Fellow's School House, and is authorized to receive taxes.
JAMES G. GIBBS, Mayor
Aug 16 3