

# North State.

SALISBURY, N. C., NOV. 19, 1869.

[NO. 46]

VOL. IV.]

## The Old North State

PUBLISHED WEEKLY BY  
**LEWIS HANSEN**  
Editor and Proprietor.

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### LEGAL NOTICES.

**North Carolina, Superior Court, Davidson County.**

**John S. Maxwell, Administrator of John Maxwell, dec'd,**

vs.

**Thomas T. Maxwell, Thomas M. Brock, Jas. V. Brock, Sarah E. Naylor, wife of Benjamin T. Naylor and Catharine A. Brock, Ed. Ward I. Brock and John E. Brock, minor children of John M. Brock, deceased.**

In this case it appearing to the satisfaction of the court that James V. Brock and Sarah Naylor wife of Benjamin T. Naylor, defendants in this case are non-residents of this State, therefore, it is ordered by the court that publication be made for six weeks in "The Old North State" newspaper, notifying the said defendants to appear at the Court House in Davidson County, on the 25th day of November 1869, then and there to answer or demur to said petition, or the same will be taken pro confesso and heard ex parte as to them.

Witness, H. R. Austin, Clerk of the Superior Court of Davidson County, at office in Mocksville, the 11th day of September, A. D. 1869.

H. R. AUSTIN, C. S. C.

41—6a (for \$10)

**State of North Carolina, Superior Court.**

**John W. Smith, John Parker and wife Isabel, Henton Parker and wife Mary C. and Frank Statten, Guardians of Susan Brooks, and O. William, Guardian of Alfred A. Brooks, Mary F. Brooks, and Caroline C. Brooks, Plaintiff.**

vs.

**William Austin, Wincy Ann Brooks and William Brooks defendants.**

Petition for Sale and Partition of the Lands of the late Caroline Brooks.

In appearing to the satisfaction of the court that William Austin, Wincy Ann Brooks and William Brooks, defendants in this proceeding are non-residents of this State, it is ordered, that publication be made weekly for six successive weeks in the "Old North State" newspaper published in Salisbury, N. C., announcing each of said defendants to appear at the office of the clerk of the Superior Court of Stanly County, on the 25th day of November 1869, then and there to answer or demur to said petition, or the same will be taken pro confesso and heard ex parte as to them.

Witness, James M. Redwine, Clerk of said court at office, the 11th day of October, 1869.

J. M. REDWINE, C. S. C.

41—6a (for \$10)

**State of North Carolina, Superior Court.**

**Edmund Kerley, administrator of Alfred Davidson,**

vs.

**Issac Russell and wife Elizabeth, G. W. Sweet and wife Cynthia, Robert Lowe and wife Susan, John Davidson, Margaret A. Kerley, William Davidson, John P. Davidson, David N. Davidson, Hildah Davidson, Jane Davidson and William Davidson, heirs at law of B. J. Davidson.**

In this case it appearing to the satisfaction of the court that Issac Russell, G. W. Sweet and wife Cynthia, Robert Lowe and wife Susan, John Davidson, Margaret A. Kerley, William Davidson, John P. Davidson, David N. Davidson, Hildah Davidson, Jane Davidson and William Davidson, heirs at law of B. J. Davidson, defendants in this case are non-residents of this State, therefore, it is ordered by the court that publication be made for six weeks in "The Old North State" newspaper, notifying the said defendants to appear at the Court House in Davidson County, on the 25th day of November 1869, then and there to answer or demur to said petition, or the same will be taken pro confesso and heard ex parte as to them.

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J. M. REDWINE, C. S. C.

41—6a (for \$10)

**Kerocene Lamps. At Cost**

There is a considerable lot of these Lamps, some of them very beautiful, having been sent to me by a subscriber by mistake, on the part of the Manufacturers, and having been requested to dispose of them, with as little delay as possible, I now offer them at the cost and charges only. Dealers who may be in want of the article, have an opportunity of buying the whole lot, at a price quite as low as they can be bought in the market.

AT E. HILLS' Drug Store, Salisbury, N. C., Nov. 19, 1869.

## Dr. GODDIN'S COMPOUND GENTIAN BITTERS.

The Great American Tonic and Diuretic!

Recommenced and prescribed by physicians wherever known.

The "Compound Gentian Bitters" are made of the purest and best Vegetable Tonics and Anagogues known to the profession. They also contain twenty per cent of

**BICHLORIDE OF MERCURY!**

Which makes them, beyond all question, the best DIURETIC in existence; and for Distressed Kidneys, Bladder and Urinary Organs, have no superior, if any equal! Those who try will in every case find them a safe, pleasant, speedy and effectual Remedy.

They are a sure preventive and cure for Chills and Fever, and all Malarial Diseases!

**DYSPEPSIA, INDIGESTION, SICK-HEADACHE, COLIC, BRONCHITIS, ASTHMA, COLDS & COUGHS, NEURALGIA, GENERAL DEBILITY, Diseases of Kidneys, Gravel, &c., and every Disease requiring a general Tonic impression.**

For Female Diseases peculiar to Females it is also a Tonic that can be used.

In consequence of Typhoid and other low forms of Fever it is the very best Tonic that can be used.

The Compound Gentian Bitters must, with universal favor, and have received the strongest testimonials ever given to any medicine, a few of which are appended below:

"This is to certify that I have used Dr. Goddin's Compound Gentian Bitters and cheerfully recommend it as the very best Bitters that can be used for ordinary debility, sick stomach, &c."

E. M. HOLT, M. D., Epson, Orange Co., N. C., May 15, 1869.

"I have used your Compound Gentian Bitters," says Dr. C. G. Holt, General Debility, &c., and I am fully satisfied that they are the best Bitters of which I have any knowledge, and the best Tonic offered to the American people."

ROBT. Y. SLATER, Henrico County, Va., June 25, 1869.

"The Compound Gentian Bitters have been used for twenty years with an affection of the kidneys, prostrate gland and structure of the urinary, have been under the treatment of the best physicians in the country, one of whom is now a professor in a medical college. All failed to relieve me. I finally tried your Compound Gentian Bitters, and have taken like a charm—one bottle gave me complete relief. I believe it to be the best medicine I have ever used."

Very respectfully,  
JAS. A. FAULCON, Littleton, N. C., Jan. 7th, 1869.

Prepared only by Dr. Goddin.

**JAMES T. WIGGINS, Proprietor Wholesale Agent.**

SOLE AGENTS, SALISBURY, N. C.

For sale by Dr. G. B. Poulson, Salisbury, N. C.

38—

**10 YEARS BEFORE THE PUBLIC.**

**IF OTHER Remedies FAIL**

**FOR BRONCHIAL AND LIVER DISEASES** read the following:

Thomas H. Rainey, Esq., Granite Co., N. C., says: "I and my wife Pills to be the best family medicine I have ever used. They have proved very beneficial to my own case. I have been very much afflicted for fifteen years, and have tried every kind of medicine that I could get, but have found none to go out of my mind and affect the pain would be relieved. I purchased a few boxes of the 'SERRAVALLO'S HEPATIC PILLS,' and the first dose I took gave me great relief. I continued to use the Pills for several weeks, and have not suffered from liver disease since. I have recommended them accordingly, and several persons are in want of them."

All diseases are cured by the Serravallo's Pills, and with all the assistance it can receive from strength-giving medicines, suitable nourishment, and a judiciously chosen diet, which would be best to take medicine before you get sick, to prevent sickness, to take medicine after you get sick, for sickness, and to cure you when you are sick."

Exercise your own judgment in the course of defense; the enemy will come, he will be ready with

**The Southern Hepatic Pills,** That all long known and well to be ready for all Bilious diseases, caused by a

**DISEASED LIVER.**

TO ALL EMIGRANTS.—You are about to make a home for yourself and family in a climate which you or they have not been accustomed to, you will, of course, be exposed to all the diseases peculiar to that climate; you should be careful to use such medicine as is adapted to the disease of that climate, and which will give you the greatest security in the use of

**SERRAVALLO'S HEPATIC PILLS.** They can be sent to any point in the United States by Express.

Price: One Dozen, 25 Cts. Doz. \$2.50—Per Gross, \$25.00—One Gross, \$25.00—Three Gross, \$75.00—Five Gross, \$125.00—Ten Gross, \$250.00—Orders should be addressed to

Dr. Serravallo's Pills, 25, Rue de la Harpe, Paris.

For the full particulars attend to the following

## VALUE OF CONFEDERATE MONEY.

Important Decision of Chief Justice Chase—Confederate Money as a Medium of Exchange—Minting of the "Dollar"—How Confederate Money is to be Paid.

In the Supreme Court of the United States on Monday, in the case of Thornton, appellant, vs. Smith and Hartley—appeal from the District Court of the United States for the Middle District of Alabama—Mr. Chief Justice Chase delivered the opinion of the court, reversing the decree of the said District Court, and remanding said cause to the said District Court, with directions to enter a decree in conformity to the opinion of this court. The decision is a most important one, involving the question of the value of Confederate money, and the amount of the note and interest, and for the sale of the land to satisfy the debt.

This is a bill in equity for the enforcement of a vendor's lien.

It is not denied that Smith and Hartley purchased the land, or that they executed to him their promissory note for part of the purchase money, as set forth in his bill, or that, if there was nothing more in the case, he would be entitled to a decree for the amount of the note and interest, and for the sale of the land to satisfy the debt.

But it is insisted by way of defense that the negotiation for the purchase of the land took place, and that the note in controversy, payable one year after date, was made at Montgomery, in the State of Alabama, where all the parties resided in November, 1864, at which time the authority of the United States was excluded from that portion of the State, and the Confederate States were in possession of the same, and put in circulation by the persons exercising the ruling power of the States in rebellion, known as the Confederate government.

It was also insisted that the land purchased was worth no more than three thousand dollars at the time of the purchase, and that the contract price was forty-five thousand dollars; that this price, by the agreement of the parties, was to be paid in Confederate notes; that thirty-five thousand dollars were actually paid in these notes, and that the note given for the remaining ten thousand dollars was to be discharged in the same manner; and it is claimed on this state of facts that the vendor is entitled to no relief in a court of the United States.

And this claim was sustained in the court below, and the bill was dismissed.

The questions before us upon appeal are these:

1. Can a contract for the payment of Confederate notes, made during the late rebellion, be enforced in a court of the United States?

2. Can evidence be received to prove that a promise expressed to be for the payment of any other than lawful dollars of the United States, is not binding on the party who made it, in the absence of the fact that the note for ten thousand dollars was to be paid, by agreement of the parties, in Confederate notes?

The first question is by no means free from difficulty.

It cannot be questioned that the Confederate notes were issued in furtherance of an unlawful attempt to overthrow the government of the United States by insurrectionary force, and that the principle of the law is, that no contracts made in aid of such an attempt can be enforced through the courts of the country whose government is thus assailed.

But was the contract of the parties to this suit a contract of that character? Can it be fairly described as a contract in aid of the rebellion?

In examining this question the state of that part of the country in which it was made must be considered.

It is familiar history that early in 1861 the authorities of seven States, supported, as alleged, by popular majorities, combined for the overthrow of the National Union, and for the establishment within its boundaries of a separate and independent confederacy. A government was organized in each of these States, and established at Montgomery, in Alabama, first under a provisional constitution, and afterwards under a constitution intended to be permanent.

In the course of a few months the Confederate States were recognized as a government, and the seat of the central authority was transferred to Richmond, in Virginia.

It was by the central authority they organized, and under its direction, that the civil war was carried on upon a vast and extensive scale.

As a consequence of the success of the insurrection, the territory of the United States for more than four years, its power was recognized as supreme in nearly the whole of the territory of the States confederated. It was the actual government of the insurgent States, except those portions of them protected from its control by the presence of the armed forces of the national government.

What was the precise character of this government in contemplation of law? It is difficult to define its character, and it is equally difficult to determine its extent. Any definition that may be given may not impermissibly be found to require limitation and qualification. But the general principles of law relating to *de facto* governments, we think, conduct us to a conclusion in this respect.

There are several degrees of what is called *de facto* government.

Such a government, in its highest degree, resembling a high character very closely resembling that of a lawful government. This is when the insurgent government exercises the regular authorities from their customary seats and functions, and establishes itself in their place, and so becomes the actual government of a country.

The distinguishing characteristics of such a government is, that although it is in war against the government of *de jure* do not incur the penalties of treason, and, under certain limitations, obligations assumed by it in behalf of the country or otherwise, will, in general, be respected by the government of *de jure* when restored.

Examples of this description of governments *de facto* are found in English history. The Statute 11 Henry, 7, ch. 1, (British Statute at Large) relieves from penalties for treason all persons who, in defense of the King, for the time being, take up arms against those who endeavor to subvert his authority by force of arms, though they do so in doing by the lawful monarch, (4 Bl. Com. 77.)

But this is where the usurper obtains actual possession of the royal authority of the kingdom, not when he has succeeded only in establishing his power over particular localities. Being in such possession, allegiance is due to him as a king *de facto*.

Another example may be found in the government of England under the Commonwealth, first by Parliament, and afterwards by Cromwell as protector. It was not, in the contemplation of law, a government *de jure*, but was a government *de facto* in the most absolute sense. It made laws, treaties and conquests, which remained the laws, treaties and conquests of England after the restoration. The better opinion is that, as it was not justly regarded as treasonable, though in hostility to the King *de jure*. Such acts were protected from criminal prosecution by the spirit of the letter of the statute of Henry the Sixth. It was held otherwise by the judges, when Sir Henry Vane was tried for treason (5 State Trials, 119) in the year following the restoration. But such a judgment, in such time, has little authority.

It is very certain that the Confederate government was never acknowledged by the United States as a *de facto* government in this sense. Nor was it acknowledged as such by other powers. No treaties were made by it. No obligations of a national character were created by it, or represented, or on the national government.

From a very early period of the civil war to its close it was regarded as simply the military representative of the insurrection against the authority of the United States.

But there is another description of government, called also by publicists a government *de facto*, but which might perhaps be more aptly designated a government of paramount power, or a government of paramount force. Its distinguishing characteristics are, 1. That it exists within the territories and military powers within the territories and military powers of an established and lawful government; and 2. That while it exists it must necessarily be obeyed in civil matters by the people, who, by its aid, become responsible as wrongdoers for these acts, though not warranted by the laws of the rightful government.

Actual governments of this sort are established in consequence of a rebellion in extent and conditions. They are generally administered directly by military authority, but they may be administered, also, by civil authority, supported more or less directly by military force.

One example of this sort of government is found in the case of Castine, in Maine, referred to in the opinion of the court, in the case of Thornton vs. Smith and Hartley. It was established by the troops of the United States. It was determined by this court in Fleming vs. Gray, 6 Wall. 614, that the government of Castine, during the occupation, still having come, together with the whole State of Maine, of which it was a part, into the exclusive possession of the United States, it was not to be regarded as a government of other nations as the territory of the United States.

These were cases of temporary possession of territory by lawful and regular governments at war with the country in which the territory was situated. The central government established for the insurgent States differed from the temporary governments at Castine and Tampico, in the circumstances that its authority did not originate in law, but in force, and that it was not a government of other nations, but a government of the United States. It is to be observed that the rights and obligations of a belligerent were conceded to the insurgent government, not in recognition of its authority, but from motives of humanity and expediency by the United States. The whole territory controlled by it was thereafter held to be the territory of the United States, and the inhabitants of that territory were held to be citizens of the United States. The extent, then, of actual supremacy, however unlawfully gained, in all matters of government within its military lines, the power of the insurgent government cannot be questioned.

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