

U. S. Rep.]

THORINGTON V. SMITH &amp; HARTLEY—COYNE V. SOUTHER.

[U. S. Rep.]

received to prove that a promise made in one of the insurgent States, and expressed to be for the payment of dollars, without qualifying words, was, in fact, made for the payment of any other than lawful dollars of the United States, is next to be considered. It is quite clear that a contract to pay dollars made between citizens of any State of the Union maintaining its constitutional relations with the national government is a contract to pay lawful money of the United States, and cannot be modified or explained by parol evidence. But it is equally clear, if in any other country coins or notes denominated dollars should be authorized of different value from the coins or notes which are current here under that name, that in a suit upon a contract to pay dollars made in that country, evidence would be admitted to prove what kind of dollars was intended; and, if it should turn out that foreign dollars were meant, to prove their equivalent value in lawful money of the United States.

Such evidence does not modify or alter the contract. It simply explains an ambiguity which, under the general rules of evidence may be removed by parol evidence. We have already seen that the people of the insurgent States, under this Confederate Government, were, in legal contemplation, substantially in the same condition as inhabitants of districts of a country occupied and controlled by an invading belligerent. The rules which would apply to the former case would apply to the latter, and, as in the former case, the people must be regarded as subjects of a foreign power, and contracts among them be interpreted and enforced with reference to the laws imposed by the conqueror, so in the latter case the inhabitants must be regarded as under the authority of the insurgent belligerents, actually established as the government of the country; and contracts made with them must be interpreted and inferred with reference to the condition of things created by the acts of the governing power.

It is said, indeed, that under the insurgent government the word dollars had the same meaning as under the government of the United States; that the Confederate notes were never made a legal tender; and, therefore, that no evidence can be received to show any other meaning of the word when used in a contract.

But it must be remembered that the whole condition of things in the insurgent States was matter of fact, rather than matter of law; and as matter of fact these notes, payable at a future and contingent day, which has not arrived, and can never arrive, were forced into circulation as dollars, if not directly by the legislation, yet indirectly, and quite as effectively, by the acts of the insurgent government. Considered in themselves, and in the light of subsequent events, these notes had no real value, but they were made current as value by irresistible force; they were the only measure of value which this people had, and their use was a matter of almost absolute necessity, and this gave them a sort of a value, insignificant and precarious enough, it is true, but always having a sufficient definite relation to gold and silver, the universal measures of value, so that it was easy to ascertain how much gold and silver was the real equivalent of a sum expressed in the currency. In the

light of these facts it seems hardly less than absurd to say that these dollars must be regarded as identical in kind and value with the dollars which constitute the money of the United States. We cannot shut our eyes to the fact that they were essentially different in both respects, and it seems to us that no rule of evidence, properly understood, requires us to refuse, under the circumstances, to admit proof of the sense in which the word dollar was actually used in the contract before us.

Our answer to the second question is, therefore, also in the affirmative. We are clearly of the opinion that such evidence must be received in respect to such contracts in order that justice may be done between the parties, and that the party entitled to be paid in these Confederate dollars can only receive their actual value at the time and place of the contract in lawful money of the United States. We do not think it necessary to go into a detailed examination of the evidence in the record in order to vindicate our answer to the third question. It is enough to say that it has left no doubt in our minds that the note for \$10,000, to enforce payment of which suit was brought in the Circuit Court, was to be paid by agreement in Confederate notes. It follows that the judgment of the Circuit Court must be reversed and the cause remanded for a new trial, in conformity with the opinion.

#### COYNE ET AL. V. SOUTHER ET AL.

A mortgagor or purchaser at sheriff's sale, is not bound to look beyond the judgment docket. All entries thereon are supposed to be properly made by authority. A defective entry of judgment or unauthorized entry of satisfaction, renders the prothonotary liable to any party injured.

Error to the Court of Common Pleas of Elk county.

Opinion by SHARSWOOD, J.

It is very important that bidders at sheriffs' sales should feel well assured as to whether they are offering to buy a clear or an incumbered title. It is well known that the law as to them is *caveat emptor*. As far as possible, the rules upon the subject should be so clear and intelligible as to preclude mistake if due diligence be used. In regard to the lien of judgments, the judgment docket has been provided, which as to purchasers and subsequent incumbrancers, is intended to afford them certain information. It is the creditors duty to see that his judgment is properly entered thereon; and if there is any mistake, the remedy of the party aggrieved is against the prothonotary. Hence, as has been held, if the entry is in a wrong name, so that those searching may be misled; or if it is wrongly described as to amount, or in any other material particular, third parties will always be protected in acting on the faith of it. There are few points in which the cases are more clear and consistent: *Blur v. Patterson*, 3 W. & S. 233; *Mehaffy's Appeal*, 7 W. & S. 200; *Wood v. Reynolds*, *ibid.* 406; *Mann's Appeal*, 1 Barr, 24; *Hance's Appeal*, *ibid.* 408; *Ridgway, Budd & Co.'s Appeal*, 3 Harris, 177; *Goepf v. Gardiner*, 11 Casey, 130. It is said, however, that the prothonotary had no power to mark the judgment satisfied on the docket; that the mortgagee was bound to look further, and