

St. Colombe v. United States.

The counsel have insisted, that the attaching-creditors could *not have taken the property out of the hands of the garnishee. Admitting them to state the law of Pennsylvania correctly, and we cannot doubt it, still the property was in the custody of the law, and would have remained safely in its custody, so far as we are informed by the testimony, had not the assignees consented to the removal of that protection.

We are of opinion, that the plaintiff ought to have been allowed a credit for the amount of the ginseng sold by the garnishee, with the consent of assignees of West, and shipped by Latimer, for himself and Redwood. But that he ought not to have been allowed a credit for the money paid by him as special bail for George Anderson. The decree is to be reversed, and the cause remanded to the circuit court, with directions to reform the said decree according to this opinion; the parties to bear their own costs in this court.

ON consideration of this cause, this court is of opinion, that there is error in the decree of the said circuit court, in allowing to the said Walter Brashear, credit for the money paid by him as special ball for Francis West, at the suit of George Anderson; and also in refusing to allow the said Walter Brashear credit for the value of the ginseng shipped and sold by the said James Latimer, with the assent of the assignees of Francis West, after the same had been attached in his hands, by the said assignees. It is, therefore, decreed and ordered, that the decree pronounced in this cause by the court of the United States for the seventh circuit, in the district of Kentucky, be reversed and annulled, and that the cause be remanded to that court, with instructions to perpetuate the injunction as to the sum which shall be equal to the amount of the ginseng shipped and sold by the said James Latimer, after the attachment sued out by Francis West, for the use of Samuel Miffin, James Lapseley and Henry Nixon, assignees for the benefit of his creditors, was levied; and to dismiss the bill as to the residue. And it is further ordered, that the parties pay their own costs in this court.

The same decree was entered in the case of West and others v. Brashear.¹

*625] *The Heirs of P. F. DUBOURG DE ST. COLOMBE, Appellants, v. UNITED STATES.

Reference on bill for account.

A complex and intricate account is an unfit subject for examination in a court, and ought always to be referred to a commissioner, to be examined by him and reported, in order to a final decree; to such report the parties may take any exceptions, and thus bring any question they may think proper before the court.

APPEAL from the District Court for the Eastern District of Louisiana. The case was argued by *Livingston*, in a printed argument, for the appellants; and by *Taney*, Attorney General, for the United States.

MARSHALL, Ch. J., delivered the opinion of the court.—The United States had obtained judgment against P. F. Dubourg de St. Colombe, in his lifetime, for a large sum of money. This judgment was revived after his

¹ For a further decision in this case, see 14 Pet. 53.

Ex parte Madrazzo.

death ; or, in the law language of Louisiana, declared executory ; and the property of which he died possessed, ordered to be seized and sold to satisfy the demand of the United States. The heirs of P. F. Dubourg de St. Colombe filed their bill, praying an injunction to stay proceedings at law on this judgment.

The bill alleges, that the estate of their parents was held in common, at the death of their mother, and that the moiety belonging to their mother descended, at her death, on them, and was not liable for debts afterwards contracted by their father. It also alleges, that they were infants, and that their father took possession of their estate, which he had wasted to an amount exceeding his effects in their hands. The law of Louisiana, they say, gave them a lien, at the death of their mother, on all the estate of their father, to the extent of this waste, exempt from the claim of any subsequent creditor.

*Several witnesses were examined, and several documents filed to prove the amount of the estate, at the death of their mother. The accounts are complex and intricate. The judge examined them, and being of opinion, that the estate was insolvent at the death of the mother, dissolved the injunction and decreed costs. This has been understood to be a final decree, and to be equivalent to dismissing the bill ; the plaintiffs appealed to this court.

We are of opinion, that a complex and intricate account is an unfit subject for examination in court, and ought always to be referred to a commissioner, to be examined by him and reported, in order to a final decree. To such report, the parties may take any exceptions ; and thus bring any question they may think proper before the court. The decree, therefore, is reversed, and the cause remanded to the court of the United States for the eastern district of Louisiana, with directions to refer the account to a commissioner, with instructions to settle and report the amount of the estate, at the death of the wife, in order to a final decree ; and to state such matters specially as he may think necessary, or as either party may require.

Decree reversed.

* *Ex parte* JUAN MADRAZZO.

[*627

Suit against a state.

Juan Madrazzo, a subject of the king of Spain, filed a libel praying admiralty process against the state of Georgia, alleging that the state was in possession of a certain sum of money, the proceeds of the sale of certain slaves which had been seized as illegally brought into the state of Georgia ; and which seizure had been subsequently, under admiralty proceedings, adjudged to have been illegal, and the right of Madrazzo to the slaves, and the money arising from the sale thereof, established by the decision of the circuit court of the United States for the district of Georgia. The counsel for the petitioner claimed, that the supreme court had jurisdiction of the case, alleging that the 11th amendment of the constitution of the United States, which declares that the judicial power of the United States shall not extend to any suits in law or equity, did not take away the jurisdiction of the courts of the United States, in suits in the admiralty, against a state : *Held*, that this is not a case where property is in custody of a court of admiralty ; or brought within its jurisdiction, and in the possession of any private person ; it is a mere personal suit against a state, to recover proceeds in its possession, and such a suit cannot be commenced in this court against a state.