

Louisiana.

Progress of the Muddle in New Orleans and Washington—Proclamations, Injunctions, Petitions, Notices, Fines, &c.

LOUISIANA IN THE SUPREME COURT.

Special Dispatch to the Cincinnati Gazette.

WASHINGTON, Dec. 12.

The Supreme Court to-day heard the application on behalf of Gov. Warmoth, of Louisiana, for the issue of a rule, directing Judge Durrell, of New Orleans, to cease from participation in State difficulties, from attempts to decide the result of the recent election, and prohibiting him from further interference in political difficulties in the State. Attorney-General Ogden, of Louisiana, and Philip Phillips, of this city, supported the application for the writ, which was opposed by Caleb Cushing and Senator Carpenter. Thomas J. Durant, formerly of New Orleans, also appeared for Pinchback, intending to move that the whole of the proceedings be dismissed for the lack of jurisdiction, but the Court declined to hear the argument upon this point, until they had decided whether to take jurisdiction. The Court meets to-morrow for consultation, and it is expected the decision will be promulgated on Monday next, and that with the decision proceedings will cease.

To the Associated Press.

PINCHBACK GOVERNMENT RECOGNIZED AT WASHINGTON.

WASHINGTON, Dec. 12.—The Attorney General this morning, in response to telegrams from acting Governor Pinchback, of Louisiana, sent him the following dispatch:

"Let it be understood that you are recognized by the President as the lawful Executive, and that the body assembled at the Mechanics' Institute is the lawful Legislature. It is suggested that you make a proclamation to that effect; also that all necessary aid will be given to you and the Legislature therein organized to protect the State from disorder and violence."

PINCHBACK REFUSES TO BE ARRESTED.

NEW ORLEANS, Dec. 12.—The Eighth District Court to-day issued an order for the arrest of Pinchback for contempt. Pinchback refused to recognize the authority, and was protected by Deputy Marshals. No attempt was made to use force in executing the order of the court. Pinchback signed the act passed yesterday abolishing the Eighth District Court.

Clinton, the new State Auditor, was installed in office to-day. The Mechanics' Institute Legislature took action regarding recalcitrant members. The Senate passed a resolution declaring the seats of all absent to-morrow, without good cause, vacant.

PINCHBACK'S PROCLAMATION.

NEW ORLEANS, Dec. 12.—The following explains itself:

"STATE OF LOUISIANA,
EXECUTIVE DEPARTMENT,
NEW ORLEANS, Dec. 12, 1872.

To the People of Louisiana:

"It is my duty to make known that the President of the United States has formally and officially recognized the State government of Louisiana, to the head of which I have been called under the Constitution of Louisiana.

"The following dispatch has been received, and is published for the information of all law abiding citizens of the State, to-wit:

"WASHINGTON, Dec. 12, 1872.

To Acting Governor Pinchback, New Orleans, La.:

"Let it be understood that you are recognized by the President as the lawful Executive of Louisiana, and the body assembled at Mechanics' Institute as the lawful Legislature; and it is suggested that you make proclamation to that effect, and also that all necessary assistance will be given to you and the Legislature herein recognized to protect the State from disorder and violence.

"GEO. H. WILLIAMS, Attorney-General."

"Now therefore I, P. B. S. Pinchback, Lieutenant-Governor, and acting Governor of the State, do issue this my proclamation counseling and commanding all citizens to recognize, support, and give obedience to the government of the State so recognized. I counsel and command all persons who may be participating in any illegal assembly claiming to be the Legislature of the State, assembled elsewhere than at the State House (the Mechanics' Institute), to disperse. I request all citizens to aid in maintaining peace, and order, and obedience to the lawfully constituted authorities, and furthermore in the discharge of executive duties of the State. I warn all parties or combinations, whatever pretense or authority they may allege for their action, that they will be held to a strict account for their conduct in the premises, and be punished to the utmost extent of the law for violation of the good order of society or disregard of the dignities and peace of the State, and I now command and will enforce obedience to all laws which may have been enacted, or may be enacted, by the General Assembly of the State, now in session at the State House (Mechanics' Institute).

"Given under my hand, and the seal of the State affixed, at New Orleans, this 12th day of December, 1872, and of the Independence of the United States the sixty-seventh. P. B. S. PINCHBACK,

"Acting Governor of Louisiana.

"By the Governor.

"GEO. E. BOVEN, Secretary of State."

THE KELLOGG WARMOTH CASE IN THE SUPREME COURT—ARGUMENTS OF MESSRS. PHILLIPS, CUSHING, CARPENTER, AND OGDEN.

WASHINGTON, Dec. 12.—The Supreme Court was filled to-day with prominent lawyers, and others interested, in the determination of questions raised in the Kellogg-Warmoth case, and to hear the discussion by the learned counsel retained in the case. Hon. P. Phillips opened the case on the side of the petitioner, with an elaborate argument of great force, contending that the court possessed the power claimed, to issue a writ of prohibition, in exercise of its general supervisory jurisdiction over proceedings of the inferior courts. He conceded that precedents in this country were against the position assumed, but insisted that in decided cases there was nothing but the expression of opinion-dicta. The cases did not present the question at issue in the clear and unmistakable form in which it now comes before the court, and the point here pressed upon the attention of the court was not necessarily decided in them. Mr. Phillips went into an exhaustive examination of the decisions in the Court of Kings' Bench, maintaining that this court possessed the power there asserted, and that this was a case calling for its exercise. The court should interpose to arrest usurpations attempted in this case. He contended that the provision of the judiciary act authorizing a writ to issue to courts of admiralty was not intended to exclude the Court from issuing it in other cases, and said that it could be issued under the 14th section of the judiciary act, which provides that the Court may issue writs scire facias, habeas corpus, and all other writs which may be necessary for the protection of its jurisdiction.

Caleb Cushing followed Mr. Phillips, appearing for Kellogg, the petitioner in the Court of Judge Durrell. Mr. Cushing said he proposed to confine himself strictly to the question of jurisdiction, the only one before the court. The petition prays the Court to grant a writ of prohibition, or of certiorari, or such other relief as it may see fit. It is thoroughly settled, in the jurisprudence of this court, that it can not exercise any supervisory or superior power in reference to other courts, except as may be expressly granted to it by act of Congress. An act of Congress grants to the Supreme Court power to issue writs of prohibition to courts of admiralty, and this court has decided, on at least five distinct occasions, that the express power as to courts of admiralty implies the exclusion of the power as in other courts, and Mr. Phillips himself, in his book on the practice of this court, has correctly stated the law as it is, that this court has no such general supervisory jurisdiction as belongs to the Court of King's Bench, and indeed none whatever, except what it has received from express acts of Congress.

Senator Carpenter, on the same side, contended that by the judiciary act of 1799, the appellate power of the Supreme Court in regard to suits in equity in Circuit Court was confined to the power to review final decrees; that this court had no authority to entertain an appeal from an interlocutory order or decree of the court below, whether the court below was proceeding within or without its jurisdiction. The petition in this case shows a pending cause in the court below which has not yet reached a final decree, and may never reach such a decree. There is, therefore, to-day no appellate power in this court in regard to that cause, and never will be, unless that cause shall reach a final decree in the court below. Mr. Carpenter continued that the 15th amendment to the Constitution guarantees, not only the right to vote, but that the ballots, when properly cast, shall be counted and returned, and be made efficacious. Mr. Kellogg claims that had the votes which were properly offered been received and counted, he would have been elected, and he brings suit in equity in the Circuit Court to restrain such canvass, and this suit is progressing in the court below, but has not yet reached a final decree. It is therefore impossible to maintain that the Court below has usurped any authority. A case is properly before it in which it may properly determine the question in dispute between the parties, and this Court can not interfere until after the final decree shall be rendered.

Attorney-General Ogden, of Louisiana, closed the argument. He said he surely was willing to hear gentlemen of Mr. Cushing's national and international reputation declare in the Supreme Court of this country that he could see no usurpation upon the face of papers filed in this cause. If it be true that so distinguished a gentleman can see no usurpation in this deliberate attack upon the rights of the State, then indeed there was cause to fear that the foundations of our American system had been destroyed, and the dearest rights of the people silently stolen from them. He said that the only hope for his State was in the action of this court; that if it could afford no remedy, then it was apparent that a defect of the most fatal character existed in our political system. He predicted that if Louisiana was stricken from the flag as a free State by this action, her fate would be but the beginning of the end, and from this date would commence a rapid dissolution of State governments.

Hon. T. J. Durant appeared for Acting Gov. Pinchback, but the Court declined to hear further argument on that side, two counsel having already been heard.

Hon. Reverdy Johnson, who was in the court, remarked, after the argument was concluded, that if it were an original question, he should think Mr. Phillips was right, but, as it had been so many times decided the other way, his view would hardly prevail.

AN APPEAL TO THE PRESIDENT.

NEW ORLEANS, Dec. 12.—The following was telegraphed to-day:

His Excellency U. S. Grant, President of the United States:

"Claiming to be Governor elect of this State, I beg you, in the name of all justice, to suspend the government now in operation here till there can be laid before you all the facts on both sides touching the legitimacy of either government. The people denying the legitimacy of the Pinchback government and its Legislature, simply ask to be heard through a committee of one hundred of our best citizens on the eve of departure for Washington before you recognize one or the other of said governments. I do not believe we will be condemned until we are fully heard.

(Signed) "JOHN McENERY."

Gov. Warmoth recommends that a committee of the fusion Legislature accompany the citizens' committee to Washington.

PINCHBACK SENTENCED TO IMPRISONMENT AND FINE.

The following is the decree of the Eighth District Court in the case of Warmoth vs. Pinchback:

"A motion having been made herein by the counsel for the plaintiff that an attachment issue against defendant for repeated and continued contempt of this court in disobeying the injunction issued herein on the 9th of December, 1872, and said defendant having forcibly resisted the process of attachment, and been guilty of further contempt, as shown by his letter to the Sheriff and the Sheriff's return therein; and considering that the term of office of said defendant as State Senator expired on the 4th of November last, and his capacity to act as Lieutenant-Governor in virtue of his election as President of said Senate, expired at the same time; considering that the resolution of impeachment of Gov. H. C. Warmoth, adopted on the 9th inst., even if adopted by a legal House of Representatives, was utterly null and void, like a judgment without citation, the law providing for a formal method of citation and preliminary investigation before any resolution can be introduced or adopted; considering that the House of Representatives, so called, which passed said resolution of impeachment is an illegal body, having no valid existence under the Constitution and laws of the State, and considering that the plaintiff, Henry C. Warmoth, has never been suspended, and that defendant Pinchback, even if he were Lieutenant-Governor, could not attempt to usurp his chair without being a mere naked trespasser: For these reasons it is ordered and adjudged that said defendant, Pinchback, be pronounced guilty of contempt of this court, and that he be imprisoned in the Parish Prison for a term of ten days and pay a fine of fifty dollars and cost of this proceeding.

(Signed) "W. A. ELMORE,

"Judge Eighth Dist. Court, Parish of Orleans."