

Rec^d from Wm. J. Karalson Rec^r and filed
this 16th Oct. 1872 J. A. Caldwell cm

Circuit Court of the United States,

For the District of Alabama, at Mobile,

IN THE FIFTH JUDICIAL CIRCUIT OF THE UNITED STATES.

IN EQUITY.

Between SETH ADAMS, FRANCIS B. LOOMIS and JOHN C. STANTON,
Trustees of the First Mortgage Bondholders of the Alabama &
Chattanooga Railroad Company, *Complainants*,

AND

THE ALABAMA & CHATTANOOGA RAILROAD COMPANY, LEWIS RICE,
A. C. LIPPITT and DANIEL N. STANTON, Trustees, &c., and others,
Defendants,

ON BILL FOR RECEIVERS, Etc.

ON the 20th day of June, 1872, the motion for appointment of Receivers, and for Injunction, was duly submitted to said Circuit Court of the United States, at Mobile, in open Court, and held for order and decree in vacation.

It appears, by the affidavits and proofs duly submitted and filed in this cause, that the property in question, to wit: the railroad and connecting works, and other property late of the Alabama & Chattanooga Railroad Company, which are embraced in and covered by the mortgage known as the First Mortgage of said Company, are rapidly deteriorating in value, and being wasted, scattered and destroyed, whereby the security of the First Mortgage Bondholders, and the interest of all other persons concerned in said property, are subject to great hazard and danger of entire sacrifice.

And whereas, the Governor of Alabama, on behalf of said State, has purchased the said property at the sale thereof by the Assignees in Bankruptcy of the said Company, for the purpose of protecting the interests of said State, as guarantor or endorser of four million seven hundred and twenty thousand dollars of said First Mortgage Bonds, the endorsement of which have heretofore been recognised by the Governor of Alabama as valid, or upon which he has heretofore paid interest, but it appears that the said State, as well as the said Company, has failed to pay the full amount of interest due on said Bonds;

And whereas, in the present condition of said property it is impossible, without great sacrifice, to dispose of the same in any manner; and whereas, it has been proposed and agreed by the parties interested, that all further opposition to the proceedings in bankruptcy against said Company in the District Court for the Middle District of Alabama shall be withdrawn, and that the said proceedings shall be affirmed; and that all other proceedings for the appointment of Receivers in the several State and District Courts shall be discontinued, so that the proceedings in this suit shall have full effect and operation without undue embarrassment, and that a Receiver, or Receivers, shall be appointed in this cause, to take charge of said property, and put the same into proper condition for its preservation and disposition, for the mutual benefit of all parties interested therein;

And whereas, in view of all the evidence and admissions of the parties, the Court is satisfied that a Receiver or Receivers ought to be appointed to take charge of the entire property, and manage the same and to put the same in order and repair, to prevent the entire destruction thereof.

And whereas, the Complainants, in pursuance of said undertaking and agreement between the parties, have presented and requested to be filed a supplemental statement, among other things withdrawing certain statements made in the original bill.

It is therefore ordered that the said supplemental statement be annexed to the original bill filed in this cause as an amendment thereof.

It is further ordered that Lewis Rice, of Boston, Massachusetts, and William J. Harolson, of De Kalb County, Alabama, be appointed Receivers in this cause to take possession of, sue for, recover and receive all the Railroad and other property and appurtenances of every kind and description whatsoever formerly or now belonging to the Alabama and Chattanooga Railroad Company, which are embraced in or in any

way reached or covered by the said First mortgage, given by said Company, as fully set forth in and annexed to said bill of complaint, and to sue for and recover all damages done to, or for taking of any part of said property, by any person or persons other than the said Governor of Alabama, and any officer or Agent of said State who may have acted by or under his authority, such suit or suits to be brought in any Court having jurisdiction thereof, and said Receivers to have power to employ counsel at reasonable and proper compensation in any matter connected with the discharge of their duties as Receivers.

It is further ordered that the said Receivers be authorized to put said Railroad and other property in repair, and to complete any incom-
pleted portions thereof, and to procure rolling stock, machinery, and other necessary things for operating the same, and to operate the same to the best advantage, so as to prevent the said property from further deteriorating, and to save and preserve the same for the benefit and interest of the said First Mortgage Bondholders, and all others having an interest therein.

It is further ordered that all moneys which may be raised by said Receivers, by loan, or which may be advanced by them, for the purposes aforesaid, not exceeding the sum of one million two hundred thousand dollars, shall be a first lien, prior to all others, on the said Railroad and other property, and to be paid before the said First Mortgage Bonds, out of the proceeds of said property.

And it is further ordered that the said Receivers shall issue certificates for the moneys which they may thus raise by loan for the purposes aforesaid, and that the said loan shall and may be made on such terms as the Receivers may deem expedient, provided that said certificates shall not be disposed of for less than ninety cents to the dollar of their face, and also provided, that interest thereon shall not be allowed at a greater rate than eight per cent. per annum, payable half yearly; and such certificates shall not be issued until the same shall be countersigned by a majority of the complainants, Trustees for said First Mortgage Bondholders, without which countersigning they shall not be entitled to the lien and priority aforesaid.

It is further ordered that the principal of any moneys so to be loaned to the said Receivers shall be payable at the expiration of ten years from the first day of September next, at some convenient place to be named therein.

It is further ordered that if the State of Alabama shall at any time pending said Receivership sell the said Railroad and other property to any person or persons, and if the full amount of interest that may be due and in arrear upon the said First Mortgage Bonds hereinbefore specified shall be paid to the holders thereof, or into this Court for their use, the said Receivers, having duly performed the objects of their trusts as before stated, shall, at the request of said State, deliver the said Railroad and other property to such purchaser or purchasers, to be subject, however, to the said lien for the payment of said moneys to be borrowed as aforesaid by said Receivers, and all interest to accrue thereon, and to the lien of said First Mortgage, and the bonds secured thereby, which are hereinbefore specified, and of the State of Alabama, as guarantor or endorser thereof, according to the terms of said guaranty or endorsement, and the laws by which the same was authorized to be made, it being expressly understood that this order is not intended to interfere with or disturb the relations between the said State and the said First Mortgage Bondholders in any manner, in respect to said Railroad and other property: *Provided*, however, if the State of Alabama shall be able to sell the said property to any person or persons willing to discharge all arrears of interest on said First Mortgage Bonds hereinbefore specified, and to take the said property without further outlay for repairs thereon, then the said Receivers shall forthwith cease any further outlay and expense for that purpose, and shall at the request of said State deliver said property to such purchaser or purchasers: *Provided*, further, that if such purchaser or purchasers from the State shall fail to pay any installment of interest at the maturity thereof on said four million seven hundred and twenty thousand dollars of said First Mortgage Bonds hereinbefore specified, hereafter falling due, then and in that case the said State of Alabama shall have the right to proceed for the collection of such installment or installments so unpaid, precisely as provided by the statute law of said State in such case of the non-payment of such installment of interest.

It is further ordered that the said Receivers, with any funds in their hands as such Receivers, whether raised by loan as aforesaid or derived from receipts accruing from said property, shall have authority to pay such sums as may be necessary to clear and perfect the title to the right of way, or to any property formerly claimed by said Railroad Company, and now claimed to be embraced in said First Mortgage; and to pay reasonable compensation to the solicitors and counsel of the com-

plainants for their professional services in this cause, and reasonable compensation to such solicitors and attorneys as the Receivers may properly employ in any matter connected with the discharge of their duties as Receivers; also, to pay such legal and necessary expenses heretofore properly and lawfully incurred, under authority of any Court, in relation to said property, yet remaining unpaid, as may be audited and allowed by a special master of this Court, to be appointed for that purpose, and approved and confirmed by the Court at a regular term thereof.

It is further ordered that any funds raised by the said Receivers, by loan as aforesaid, or received by them from any other source as such Receivers, which may not be employed or required for the purposes before mentioned, or allowed to them by the Court for their services as such Receivers, shall be paid by them into this Court, for the use of the said First Mortgage Bondholders as their interest or principal shall become due.

It is further ordered that the said Receivers do report, at each regular term of the Court, all their acts and doings in the premises, as well as the condition and prospects of the property in their charge.

It is further ordered that the said Receivers, before entering upon the duties of their appointment, do take an oath before some Judge or Commissioner of this Court, for the faithful performance of their duties as such Receivers, and give bond to the Clerk of this Court and his successors in office in the penal sum of Two Hundred Thousand Dollars, with good and sufficient security, conditioned that they shall faithfully discharge their duties as such Receivers, and duly account for all sums of money that they or either of them may raise or receive by virtue of their Receivership, and shall obey and faithfully execute this and all other orders of the Court in this cause, in relation to their trust; and said bond, when approved by a Judge of this Court, shall be filed in the office of the Clerk.

It is further ordered that if the said Receivers shall at any one time have in their possession or control as such Receivers any amount of money exceeding the sum of Two Hundred Thousand Dollars, they shall give a further bond to the Clerk to the amount of such excess, with condition, faithfully to dispose of and account for and pay the same according to the requirements of their appointment and trust.

It is further ordered that an injunction do issue against the defendants, and all persons claiming, or acting by, through or under them, or either of them, and all other persons, to restrain them from interfering with the said Receivers in taking possession of and managing said Railroad and property.

(Signed)

JOSEPH P. BRADLEY,
Associate Justice Supreme Court of the United
States, and Judge of said Circuit Court.

August 26, 1872.

Let the foregoing order be entered by the Clerk in the minutes of the Court as of this date, August 26, 1872.

(Signed)

JOSEPH P. BRADLEY,
Associate Justice, etc.

*I hereby certify that this is a
true copy of the original order
as above*
Given to & subscribed
before me this Oct 16th 1872
Clay Buff
U.S. Marshal

I James A. Caldwell Clerk & Master of the
Chancery Court of Hamilton County Tenn
do hereby certify that the foregoing six
pages of printed matter is a correct
copy of a copy of ~~this~~ Decree of said
Justice Bradley - This day exhibited to
me under the seal of the Circuit Court
of the United States for the Southern Div.
of Ala. attested by Nathaniel W. Trumble
Clerk - of said circuit court - This 14 Decr 1872
J. A. Caldwell

crw