

Feby 5th 1858,
H. D. Johnson Esq.
No 53 Liberty Street
New York.
Wants copy
of Speech
Copy sent.

3325
Law Office of Miller & Debelin,

No. 53 LIBERTY STREET,

New York, Feby. 5. 1858.

JONATHAN MILLER, }
JOHN B. DEBELIN, }

Hon. S. C. Douglas -

Dear Sir:

Permit the undersigned
to ask the favor of a copy of
your late Speech on the Le Compte
Car Kansas Constitution, delivered
in the Senate on the 25th
ult. I think - And oblige

Very Respectfully, Yours,

H. D. Johnson, Esq.

Box 2549. P. O.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

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San Francisco Cal Feb 5 '58

My Dear Sir

I received by the last mail;
your speech on the "Kansas Question"
and it affords me pleasure to be with
you in the position you have taken.
That you are clearly right, I am confident
a large majority of the Nation will
testify, one thing certain, the people
of California are for you, by far more
one; Notwithstanding the Federal
appointees may possibly outnumber
us in the State Legislature, that is
they together with the noncommittal
may refuse to take from the table our
resolutions, On the question first
being raised here, we waited anxious
for the friends of the Administration to
make a move, - we even defied them
but they declined, - so we had a
meeting, and concluded to make
the advance ourselves. - You will
see by the papers that W. S. Ferguson
(of Springfield Illinois) has introduced
into the State Senate, the proper res-
olutions, and nothing can prevent

us from passing them, except the profuse
promises of Federal favor, or the fact that
about one third of the Members of the
Legislature are candidates for Congress
and are rather timid about showing
their hands, we will make ad val
fail to come to him, and recruit
them in the next State Convention.

This City is overawed by the presence
of Federal gentlemen, who control the
entire Democratic press, Colchester Wash-
ington & the Custom House control the
"Daily Globe," - and the "Herald" (a
good paper generally) is forced into the
support of the Administration, as its
Editor (John Nugent) has been promised
the Post office of this City.

We offered full rates for the pub-
lication of your speech, in our City
papers but failed, however the Country
papers have spread it far and wide. ||

I now become a matter of serious
consideration whether the aforesaid
gentlemen should be confirmed or not
in view of their opposition to an
acknowledged majority of the party in
the State.

The consideration of the resolutions

are made the special order for next
Friday - I will spend all of next
week at the Capital, when we
expect your friends and the friends
of the "true meaning and intent" of the
Kansas Act will assemble in numbers
so you can depend upon it, that you
will not be beaten without a gallant
fight.

I hope to be able to spend a few
months this fall, visiting Ben Semples
in Illinois my wife & boy will ac-
company me, and it will afford me
pleasure to be of congratulation to
you, in the coming contest for your
re-election.

I will be much pleased to
hear from you when ever you can
span the time

Yours Truly
L. B. Wagner.

Hon. C. A. Douglas
U. S. Senate

San Francisco Cal.

Feb 5-14 1888.

L B Mignard Esq.



Answered

Feb 31st

1888.

Stekfield Mo Feb 5th 1858

Wm. S. A. Douglass
U. S. Sen at Washington
Dr Sir

I have the honor to
forward to you a printed Copy of the proceedings
of a recent meeting of the Democracy of Mont
gomery County, Expressing of their approbation
of your recent course, in endeavoring to
apply the principles of the Kansas Abolition
Bill to the action of the people of Kansas.
Hoping same may meet with
your approval I am and most Resp
Yours

V. B. M. Munn

W M Munn
Litchfield Ill
Feb 5/88
Encloses an Article
from a Texas paper

LITCHFIELD

Democratic Meeting.

At a large and enthusiastic meeting of the Democrats of Montgomery, held at the court house, in Hillsboro, on Saturday, the 30th of January, 1858, agreed by to public notice, on motion of Judge Rountree, Hon. Henry Richmond was called to the chair, and B. M. Mann appointed Secretary. The chair then stated that the object of the meeting was to endorse the course of our distinguished Senator and Representative in Congress, Hon. Stephen A. Douglass and Hon. T. L. Harris, and to express our opinion upon the present political affairs in Kansas.

On motion of H. A. Coolidge, the chair appointed Hon. E. Y. Rice, J. B. McDavid, John W. King, Elihu Boan and H. A. Coolidge a committee to report resolutions expressive of the object of the meeting. After interesting remarks from Hon. J. M. Davis and others, the committee reported the following resolutions:

Resolved, That we believe in the fundamental doctrine of the constitution of our own State;—That all power is inherent in the people;—That all free governments are founded on their authority, and in the adoption or rejection of a constitution for the government of any people, nothing short of a fair, free and direct vote at the polls of those to be governed, can carry out this great principle.

Resolved, That in pursuance of this great principle of self-government, as clearly set forth in the Kansas Nebraska Bill, in the Cincinnati Platform, and in the published doctrines of the great democratic party at the late Presidential election, the Lecompton constitution should have been submitted to the qualified voters of Kansas for their free ratification or rejection, and unless ratified at the polls, should be rejected by Congress.

Resolved, That the bold, fearless and independent stand taken by our distinguished Senator, the Hon. Stephen A. Douglass, in favor of popular rights in Kansas, has endeared him to the Democracy of Montgomery county and party, entitles him to their unqualified approbation.

Resolved, That the published opinions of our Representative in Congress, the Hon. T. L. Harris, on the same subject, also meet our warm approbation.

Resolved, That the Secretary be requested to send a copy of the proceedings of this meeting to the Hon. S. A. Douglass and the Hon. T. L. Harris.

After several able and eloquent speeches from Hon. E. Y. Rice, Hon. A. Thornton and others, in support of the resolutions, meeting adjourned, sine die.

HENRY RICHMOND, Pres.
B. M. MUNN, Secretary.

Journal

Bad Egg Papers.—No. 1.

[Bad Egg describes himself—how he lives, and what a good wife he has.]

I am a loungeur about the hotels, groceries and stores of the town. I go there because I have nothing else to do. I have a most excellent wife, who contrives by some unaccountable means to me, to support the family, keep me well clothed, and the pantry fully supplied with the luxuries of life. True, I sometimes find her at 12 o'clock at night, when I go home from my rounds, sitting up, and bending over her sewing by the flickering light of a dim tallow candle. But she was only waiting for the return of her liege lord, and I always took it as a compliment to my worth. True, I could get plenty of work to do, but I concluded long ago it was no use to work, as my wife has always proved herself able to keep up the family without any efforts of my own. Besides this, I find that in the town those fellows who work hard for a living never wear as fine clothes as we fellows do who never work at all, and that we are the most respected. Of course we are as poor in worldly goods, if not poorer than they are; but our fine clothes, (it makes no difference how we get them,) always insure us a passport into the best society of the village.

Many people wonder why it is that they have to work hard all the time, and have such hard scratching to get along, and can only wear the coarsest materials, while we fellows who never work, have no property, or any visible means of support, can bask in the finest clothes, and run our heads into the best society! The problem is easily solved.

They never think that our wives are such excellent managers: that they can out of nothing provide an excellent dinner, and by some species of magic, keep us in wearing gear. True, my wife sews all day and half of the night for the family and the neighbors, sewing she kindly "takes in." Thus is all right. The proper sphere of woman is at home among her children, and it is only play for them to sew eighteen hours out of the twenty-four.

My wife sometimes complains of weak eyes, headache, pains in the breast, and such like; but I always laugh at such complaints, and tell her that a good night's rest will cure her perfectly, and that nine-tenths of the complaints of women are

OFFICE OF BELMONT IRON WORKS

Wheeling, Va.

Wm L. Douglass
Washington, D.C.

Dear Sir: I hereby gratefully

acknowledge the receipt of a number of copies of your
speech on the Seecompton Constitution. The best Evidence I can
give you of my appreciation of your great efforts to
conserve Republican Principles and preserve American
Liberty will be to say that within a few days of the
delivery of your speech I had it printed in the only liberal
journal here (the Wheeling Intelligencer) and as that was so poor
to publish it I myself defrayed one half of the expense
and so brought it to doors of every man in the community
and that number is still sought after. In my judgement and
that of all I have heard speak of the speech (except a few
True Believers) Your opinions are incontrovertible and it has done
more to assuage sectional animosities in this section of our
State by presenting the true theory of self government and the
proper mode of keeping and governing our Territories than
all that has ever been said or written on the Kansas difficulty
Whether the Administration shall succeed or not in forcing the
so odious measure as the admission of a state under a
fraudulent constitution such as Seecompton thought the American
Congress. You need not have fears of its final results. You are

3329
Meeting Nov.
15th 1858
to Washington

Belmont
Washington
and
are
of
the
kind

right mind, all right minded know it and are with
You and though that class of Citizens are not freely justified
Either for or against Slavery! Yet they are Emphatically the
American People and they will finally Honor and Support
the true Exponent of their principles

In any light which I can view the Doctrines of Extremes
North or South destruction to the Union must result from the
course of either unless they should satisfy their Principles
We want no more deception or dishonesty but the Principles
You set forth in your speech would carry us safely through
and the Country will adopt them. There is in the foundation
of things a principle of Justice we must as a nation
seek after and adopt it or share the fate of all who
have preceded us. The Sovereignty of the People (Republican
Government) is first in the hearts of all true American
Patriots, Next the Union of the States and Providence
will provide a man who will preserve the latter whilst
he shall not subvert the former You know to me at this
moment to be that man. Truly Yours

E. B. Norton
In Edward B. Norton

The Editors of "Young America" will look anxiously forward
to the Presidential Canvass of '60. and will be glad to help
Send You E. B. Norton Jr. "Young America"

Senate Chamber,
Boston, Mass.
Feb 5 / 58
F. J. Parker.

Suggestion relative
to the admission of
Kansas



3330
Commonwealth of Massachusetts
(State House)

Senate Chamber,
(Boston) Feb 5 1858

Wm. L. A. Douglass
Dear Sir,

May I suggest
as a simple solution of the
Kansas Complication that that
State should be admitted
without reference to any par-
ticular Constitution - Let
the people settle that question
too.

Yours very truly
Frank J. Parker.

1870

1870

1870

1870

3331
Robb'sville. Hamilton. Co. Ind
Feb. 5th 1858

Honored Sir,

you may think this communication presumptuous, but that I am a friend and disciple of yours and having never troubled you before pleads ^{an} answer, and as I intend to take part in the Democratic convention at Indianapolis on the 23 of this month, and in consideration of your eminent services to our country especially your late stand in favor of the essence of Democratic principles embodied in the Kansas Nebraska act. I think it my duty to our common country and to you as the ablest and truest statesman of the age, to respectfully solicit your advice with respect to the course I shall pursue to best advance the welfare of the principles best calculated for the benefit of our.

beloved country.
it is an evident fact that the
late convention at Indianapolis
held by Senator Bright and
Co. has entirely failed to
satisfy the true Democracy
of this state. and it is plain
to be seen that unless some
thing is done to counteract its
effects that it will result in
fatal injury to Democracy.
Therefore in consideration of your
wisdom and great experience in
political matters do I appeal
to you for direction: and permit
to say that I think it is your
duty to answer me, as I am a
sincere friend friend of yours, and
and have been for a long time. but
want of confidence that I could
communicate with you in a
becoming manner has deterred

my writing before. I never can
flatter and I hope you will not take
me that way. you are my choice
for Chief Magistrate of this
state in 1860. and you also were
my choice in 56. but I was not
a member of the Cincinnati
convention. and could not accomplish
anything. I J. I was in a position
to accomplish the in C. I would
do what I could... if I can not
make good speeches I can ~~not~~
circulate yours. and am willing
to do anything that way that I
"can". the committee of arrangements
of the Democratic convention to be
held at Indianapolis on 23 this month
are Jas. P. Drake. Chas. Conlon
Austin G. Brown. Francis King
J. P. Bryan. perhaps you find
some of them may be you have
friends among them. hope so.

I have the honor to be
and remain your sincere friend
and well wisher.

Hon. Stephen A. Douglas. Edgar Patten

any document that you think
proper to send me I will
distribute as you may direct
respectfully, E. P.

W
"Lee Gate"
Wash advice
affection your com
Political
Cogan Patis
Anda Feltz's
Hamilia
Kollerville.

Rockville Febr 5th 1858 —
 Hon S A Douglas
 Washington
 D.C.

Sir

I have been in 8 Counties
 Since the Convention of the 8 I have also recd
 letters from leading Democrats living in almost
 half of all the State of Indiana and I do
 assure you that the resolutions which were
 adopted at the Convention are absolutely
 to the true voice & will of the people that
 they will not vote for any man who is
 willing to run upon the ticket. It is
 true that party spirit will do something, but there
 is no possible chance to elect in my judgment
 unless the platform is in some way repudiated
 & a new one adopted which admits of no equivocal
 construction the numbers will be beaten from
 thirty to 50 thousands in this I can not be mistaken
 I write you for the purpose of saying that
 we hope & believe you may save the
 party in all the North and you will
 give yourself no fears if you but
 keep what I have termed the great Comp
 bell engine on the track it will
 climb all the Mountains & carry us
 into Port Hope Genr Jackson won

all his high Character by his bold &
determined, will you or right & the last
appearance of falling would at this time
be seized on & falsified & for your doctines
that the only fault that Bright has is to use tools
to falsify the position of men, knowing
him as I do I can account for much that
appears in print about Low Myt
we will hold a Mass Convention
the 23^d Feb^r next at Indianapolis where
he then & will send you the result we
will carry this question or beat all who
oppose or even play shy.

With B & F he sent home
it does seem to me that the US Senate will
not justify the violation of constitutional law
& order as our convention did

Yours truly
A. M. P. [unclear]

Rockville. Ind.

Feb. 5th 1878

A. M. Pratt.

Political and
relating to the Court.
of the 8th



Copied

Opinions
of the
Supreme Court
of the
State of California
Rendered at Sacramento
of the
July Term 1856 Page 154.

Lambert et al. vs. Briggs. -

This was an action of ejectment in the court below. The plaintiffs are non-resident aliens, and the only question involved is, whether in such capacity they can maintain an action of ejectment in the courts of this State.

By "treaty" stipulations between the United States and the Hanses, acting through of Lübeck, Bremen and Hamburg, it is provided, "That the citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or ab-intestate, and they may take possession thereof, either by themselves, or others acting for them, and dispose of the same at their will; paying such duty, only, as the inhabitants of the country wherein said goods are, shall be subject to pay in like cases. And, if in case of real estate, the said heirs would be prevented from entering into the possession of said inheritance on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same as they may think proper, and to withdraw the proceeds without molestation, and exempt from all duties of taxation on the part of the government of the respective States."

In the case of the People vs. Gorke and Clarke, which was a proceeding in the nature of an inquest of office, this court affirmed the constitutionality of a similar treaty stipulation between the United States

and the Kingdom of Prussia. I did not participate with the majority of the Court in that opinion, and entertain great doubts of its correctness.

In my opinion, the treaty making power can only be co-equal with the express grant of power to the Federal government, and can never be extended, by implication, to the reserved powers of the States or matters which belong to State sovereignty, or the right which appertains to each State to govern her own domestic concerns, and establish her own police regulations. Neither can the exercise of this power, or the part of the President and Senate, be extended to matters which belong to the proper subject of Congressional legislation. For if we would, as Mr Jefferson truly remarks, in his letter to Mr Monroe, in 1796, upon the subject of the British treaty, be virtually transferring the power of legislation from the President, Senate and House of Representatives, to the President, Senate and Rarings, and any other Indian, Algerine or other Chief?

The true rule of interpretation in my opinion is, that whenever the treaty embraces matters which are the subject of legislation by Congress, it will require an act of legislation to carry the treaty into effect, otherwise the House of Representatives is a useless appendage to the political machinery of our government, and powers which are expressly prohibited to Congress or reserved to the States, may be exercised through the instrumentality of an omnipotence of the treaty making power.

To assert the proposition, that the President and Senate are above the Constitution in this particular, and that they may do in this behalf what the President and both Houses of Congress cannot do, would be destructive of the government, for, under the cover of a resort to the treaty making power, every outrage and injustice which illiberality can conceive, or fanaticism execute, may be perpetuated. By a treaty with England for free black negroes may be introduced into South Carolina and other slave States of the Union, contrary to the police regulations of those States. The African and the vessels of the penal colonies of the South Pacific, may be introduced into California on the same footing as the intelligent and

virtuous population of the more favored portions of Europe, and every branch of trade, agriculture, commerce and manufactures may be prostrated at the feet of this unconstitutional mastodon. Nay, more, by a treaty of amity and friendship with the Emperor (Saugue) of Hayti, every slave in the Southern States may be emancipated, and turned loose upon their present masters.

There, let it be asked, is the exercise of this power to end, and who is to be the judge whether the objects intended to be compassed are strictly within the treaty making power? Already have we witnessed in this State a disgraceful exhibition of the extent to which the power may be claimed, and the right of a party to be compensated with his witnesses and have process for their attendance in Court, a right guaranteed by the Constitution and laws of the United States, and the State of California, is claimed to have been abrogated by treaty stipulations with France.

It cannot be contended with any show of reason, that the Federal government took this grant of power in the enlarged sense in which it is exercised of England and the enlarged nations on the continent of Europe, or that she is vested with the same plenary powers that the individual States were before the adoption of the Constitution.

The political structure of our government forbids such an idea. The power must be construed in reference to the powers delegated to the United States, and those reserved to the States, and must be further limited to objects which are the peculiar and proper subject matter of treaty stipulation.

The exercise of this power, under the Constitution, can scarcely extend beyond that of declaring war, making peace, regulating commerce and adjusting national misunderstandings or differences, and for the execution of such purposes, the power to alter the rule of descent, to change the domestic policy of a State, and to alter the laws of evidence are not incident, any more than the right to abolish slavery, or any of the other acts we have enumerated.

It is not necessary for the purpose of this decision to examine this question further, as we are satisfied giving full force to the treaty, the plaintiff cannot recover in an action of ejectment.

The 14th section of the 1st article of the Constitution of this State provides that: "aliens who are or may become bona fide residents of this State, shall be entitled to enjoy the same rights, in respect to the possession, enjoyment and inheritance of property, as native born citizens." By the rules of construction heretofore adopted, this clause negates any supposed right which non-resident alien heirs would otherwise have to inherit.

It will be observed that the treaty gives to the heirs the right of possession of personal chattels, but not of real estate, which the party had three years to dispose of. It is said that this is a mere empty promise, worthless without it is coupled with the right of possession.

The laws of this State do not recognize the law of champerty, but, on the other hand, expressly authorize sales of real estate by parties out of possession, so that the party may freely exercise the privileges guaranteed by the treaty. We are of opinion that the Constitution expressly prohibits the plaintiffs from inheritance, and, that being thus incapable of inheriting, they cannot maintain an action of ejectment, and that their rights have not been enlarged in this respect by the treaty.

Judgment reversed.

L. concur.

Murray, C. J.

Terry, J.

ReflectionsSimpson et al. vs. Bafes

In examining more closely the decision of the Supreme Court of the State of California in question, much will be discovered to show its illegal and incompetent character. For it seems to be directed against the general practice of courts, against the rights of nations, the private and family rights and the constitutions of the United States and State of California and their laws as they are at present existing, as well as against the general and moral principles of law. And it further seems, that the Supreme Court, by rendering this decision has altogether transgressed its limits.

In this way, then, the Supreme Court, instead of finishing by this judgment the simple cause in question, has only entangled it more thereby and in many respects almost entirely raised the legal condition of this country.

Therefore more minute reflections on this decision may not be amiss and be justified so much the more as the latter, with such qualities, in future similar cases might generally have the most pernicious consequences. Such reflections might serve at the same time as a landmark for the political and legal learning as proceed in this document by the two judges of the Supreme Court of the State of California concerned therein.

To demonstrate, however, clearly to any body, in such examination, the whole matter, it is necessary to consider one point after another and touch all the particulars of the decision not only alleging those laws that refer to the matters of fact concerned, but also pointing out and separating such rights as necessarily belong to the different parties.

The Supreme Court in consequence of the original and proper complaint made only called upon by the competent parties, that is the lawful heirs and assigns of the late Henry Etiger, of the one, and Bernhard Bafes, of the other part, and by them informed on the condition of the case, so as to render judgment thereon. The object of the suit was nothing but the fulfilment of a private contract and the possession of a lot of ground by private parties.

According to general practice every judge is bound to decide in a case merely upon such controverted points as for which the contending parties had applied to and on which they had pleaded before him. On examining the case he is never allowed to consider the rights of a third party; unless it be represented, personally or by attorney, for the maintenance of its demands. And further the decision is to be founded on existing laws with positive definitions, or on previously delivered valid decisions on special cases of a similar nature, or on general and moral principles as far as the same may be properly applied to the cause in question. And lastly a court of appeal is never allowed to render judgment in a case wherein the lower court did not decide, or if the latter did, when no appeal therefrom has been made.

In this instance, beyond the original and proper complaint and the decision thereupon delivered by the fourth District Court of San Francisco, there did not exist neither claims on the inheritance, nor any former valid decision duly delivered in a similar case, nor an appeal from a competent party, so as to exclude foreign heirs from the enjoyment of and just title to inherited rights in consequence of a suit for non fulfillment of a private contract.

Roschard Rife by the agreement made the 30th of April 1852 took the lease of a portion of the land in question, at a monthly rent of twenty dollars for two years with the privilege of three, but had never so lawful right whatever, neither on the inheritance, nor on said piece of land. Roschard therefore objected, that persons being in foreign countries had no right of inheritance and possession of inherited real estate, did not desire of any consideration in the examination of the case, because he was not authorized to waive any claims that might exist thereon, and because the objection, in consequence of the private contract into which he had entered, did not release him from his obligations.

According to the law of nations and the Statute of the State of California, any foreigner may make complaint at and call for protection by the Courts, whenever the safety of his person or property be endangered or the

law be infringed upon by anybody belonging to the State. In such cases the Courts are bound to decide impartially according to law and justice.

After the general practice of the Courts and the right of nations and savings law of the State the Supreme Court had no right to reject the complaint of the heirs of the late Henry Rife, on fulfillment of a private agreement, by disregarding in their decision the original object of the suit.

Thus forbearing a decision on the proper complaint and hindering the preservation and free sale of an inherited piece of real estate, the Supreme Court has deprived the lawful heirs of a deceased citizen of the State of their inheritance, declared it, at it were, to be without an owner and indirectly delivered it to the unlimited use and possession of another party, that had paid nothing for and by no means was entitled to it. And if further money saved the heirs to pay a heavy taxation to the State continually, as also to the County and City and likewise a great amount of costs of suit, lest their claim might be lost.

As well as the State of California, in its character of a generally independent and sovereign has its certain rights in relation to the United States, so the citizens of it and persons naturally connected with them, have certain rights in relation to the State of California, that cannot be taken away from them by laws enacted by either party.

From at the very moment of his birth obtains rights and obligations in human society as nature has formed it. For this, as in any other, reciprocal rights and obligations are so closely connected and balancing each other, that a separation or the raising of the equilibrium of the whole is impossible without carrying on the greatest scale energy where that will again produce new ones. For, where rights are not fully performed on the one side, there obligations are not duly fulfilled on the other. The special rights that every body possesses are called his private rights, and there exist obligations correlative to them; that also therefore by which the members of a family are by the law of nature formed into a separate body are called rights of family. One of these is the right of inheritance. The law of inheritance therefore contains mutual rights and obligations

of the single members of a family as founded by nature itself.

Therefore no man can be excluded from the rights of inheritance of his family, nor relieved from his obligations to the latter, unless he have raised this relation himself of some way, or some other possible separation have taken place. The State only has the right to regulate the rights of the inheritance equal family, not the right to exclude any body from them without cause.

In the opinion of the civilized nations, the end and aim wherein wherof a whole nation forms a state is only the maintenance and protection of the family and other private rights of its citizens, generally and specially, against every body and besides the enhancement of everything that may be, according to circumstances, necessary and useful for the commonwealth. And for the work of the actual equal and inoffensive execution the State has, exclusively, ~~has~~ the right and power to regulate, publish and supervise the private and family rights within according to the general and moral principles of law, as well as to adjust the differences occurring. Besides making the laws it never can exclude a man from any of these rights, except the latter have placed himself beyond the law, by an offence or crime. Besides this may man may act without restraint and do everything not expressly forbidden by law.

By the Constitution of the State of California the equality before and the benefit of the law, without distinctions, is emphatically warranted to all its citizens and the heirs of the same. The State further, has specially regulated the laws of succession and provided for the execution of the wills of the deceased. According to these laws the brothers and sisters of an unmarried person are his lawful heirs in a case when nearer ones do not exist. And by express regulations the rights of inheritance for foreigners are not at all diminished. And for the supervision and due execution of all these laws, including those on wills, the State itself has instituted the Probate Court.

By order of the Probate Court of San Francisco the parcel of land in question was reserved for the provision and free unlimited disposition of the heirs, of the late Henry Hoyer. Against this no appeal to the Supreme Court was

made. Nothing prejudicial could be brought against the late Henry Hoyer or his heirs as to declare them from their rights.

The Article of the Constitution of the State of California to which the decision of the Supreme Court refers, in its proper meaning only declares the equal right of lawful inheritance of such persons as are not borne in the State of California, but living in the same. And express and separate declaration that such persons as might perhaps be borne or living in the State of South America or somewhere else beyond this State's limits, shall be excluded from their lawful rights of inheritance, as they may be found in this article or somewhere. The State of California could not make such a law, because all regulations concerning persons beyond the State's limits, do not belong to the interior, but to the exterior and common affairs, and therefore to the competence of the United States.

By the law of the 19th April 1850, that is from 3 to 5 months before the decision of the Supreme Court was delivered the State of California has expressly granted to the foreign heirs of its citizens the right of possessing inherited property for 5 years after the death of the deceased and of selling the same within this time without restrictions.

The decision of the Supreme Court, that persons, being beyond the boundaries of the State of California, shall have no right of inheritance therein, — whereby the provision and free disposition of the inherited piece of land by the heirs was most injuriously prohibited, — offends therefore against the Constitution, the existing laws and the general and moral principles of jurisprudence. And that article of the Constitution on which the decision is based, is erroneously interpreted and improperly applied to the case in question.

When a greater number of men have determined upon living together, making that all the members, generally and especially, may enjoy the natural private and family rights according to circumstances, and secure when equally and unconditionally by other parties, then they commonly — and reservation of their rights, — declare about as follows:

“All the land and water in the limits set forth, and all that exists

in complying with its obligations, may be required by the State, even with injurious consequences along time, if it become necessary and useful for the whole, that it submit in part to special obligations.

All these inherent rights of the State are either private rights existing equally among the single citizens, or rights of sovereignty existing on the part of the whole in respect to the private individuals. This right of sovereignty, together with the official acts of those persons or corporations duly authorized for and entrusted with the same, are holy and inviolable to all the citizens.

The rights of sovereignty are as absolutely necessary for the existence and support of a State, as the rights private and family rights for the care, sense and support of a single person, family or corporation. For the State must, on a large scale just as well as other corporations on a smaller, be enabled to take hold and make use of all the necessary and existing means for the end just before mentioned, and further to secure itself against all pernicious influences from without and within, and in case of danger to sacrifice a little for the purpose of saving the whole. And it must always be in the condition of making full and unrestricted use of all its right and combining all its power if it wants to fulfill all its duties towards the whole and the single parts and to protect them, in any emergency, against trespass on the private rights or other usurpation whatever from within or without.

The sphere in general, wherein a State may exercise its rights extends to all cases where necessity or utility according to circumstances require it, without regard to single parties, even if the same had to be sacrificed for the maintenance of the public rights and the benefit of the whole. This sphere can by no means be marked out minutely and precisely.

For reference hereto Cicero, 2000 years ago said: *Etiam illi, haec iudi, haec scripta legi, haec de significativis et clarisimis viciis, et in hac republica et in aliis civitatibus monumenta nobis, Attico,*

prodesse videntur - non propter eandem, sed etiam ab illis, sed, quae quaque rei publicae status, inclinatio, longinquitas, contentio, particularitas, esse defendenda est (This I have learned, read and read in books, and this these monuments the books tell us of the wisest and most distinguished men, in this republic as well as in other states: that the same persons, but rather those which are demanded by the state condition, the inclination of time, and the reasons of harmony.)

According to a general rule, the rights of sovereignty are conferred upon the head of the people, representing the commonwealth corporally, and secondarily upon those persons or corporations that are in direct communication with the power and expressly appointed and authorized for the purpose. Simply it is insignificant which title or name is given to them, and whether they have attained those positions by birth or appointment or election by the people; for, by all these different ways, those persons are only to be designed to whom the public service shall be trusted at the option of the people. Their right and power they receive not from the State. In this respect the relation and condition of a nation are alike to those of a man or a family both of which constitute a community of single members, and, in a smaller scale, are the natural model of a State.

Among men and families each member has his special rights in a special province; but naturally connected and led by the feeling of self-preservation, which is correlated with necessity and ability, they become united as an independent corporation under the sovereignty of a chief. To this they communicate, directly and uninterceptedly all their observations concerning the benefit or prejudice of the whole or the single parts, whereupon the rulers are considered disinterested and finally concluded upon at the highest place, after certain principles, so as the public weal, according to circumstances, may require. Then the resolution is imparted gradually or directly to those men, here qualified and authorized for the execution. In this fixed way, the whole is governed by one being at the head, that is put in a position independent on the bodily qualities of a man and unrestricted, and is inviolable though its existence and actions are to be observed, felt and seen always moment.

In a healthy condition and in a common concern, no member of the human body, or a family will encroach upon the special rights of another, or endeavor to give prescriptions to the head for the resolution, attainment and exercise of ends and means; but, on the contrary, it will in all matters and at all times leave the consideration, arrangement and decision thereof to the wisdom of the head, merely subject to communication and execution on its part.

And further each member will exercise its rights in its particular sphere, and being disturbed therein by another merely invoke the protection of the head, and by authority of the latter take possession of its acquisitions.

The head, however, as it were, will consider every thing its property, and, generally, dispose thereof as it thinks proper. It will always regulate the exercise of the private rights of the single members, according to circumstances, and oversee and maintain the same, in case of need defending them with all possible means, but never encroach upon or destroy them without just and sufficient reason.

But, when a member disturbs the existing order, encroaches on the rights of others, endangers the public welfare or not complies with its obligations, the head will look after the cause and remove them instantly; or undertake any thing possible to repair the damage and restore a legal state of things. It should all praise itself if it would regardlessly try to render that member harmless, lest the evil spread and greater injury accrue, perhaps separating and excluding it from the community with the loss of the rights it hitherto enjoyed.

This state of things, that the sovereign rights of the different members of community are united in and executed by a common head, which puts into action certain special members for the same end, — it is to be found with all creatures which are naturally connected and living in company. It is consequently, a law given by nature itself, and prescribed alike to any people, as soon as they by such an association have formed a State.

If this rule is properly established and kept in a State, and based up on it tried to put down general and moral principles of right into the laws of the nation and execute them as much as possible, only those people

may reach the highest perfection. By any deviation from or alteration of the rules constituted in this way, or by a neglect or carelessness in the execution and execution of the proper principles of law, there will arise evils in the State instantly. There will be bad administration of the public offices, discontentment, insecurity of persons and things, arbitrary and oppressive laws, in short revolutions, which will finally destroy the independence and cause the speedy ruin of the people.

It is decidedly wrong to pretend that, while a State is already existing, god single corporations may exercise the right of sovereignty. There no State can exist with five the State, still less constitute a new one. The people is entitled to set forth the principles on which it wants to be governed, it may reform them according to its progress in course of time, and for this purpose invest expressly and distinctly certain members with the necessary power; but the right of sovereignty and of government themselves belong to the State only. Very clear rights by a Declaration in each case commonly given, the granting of the constitution and its acceptance on the part of the citizens, who are all equal in this respect, are all conferred upon the State, jointly, together with the right of participation. The single parties or corporations therefore, can only hold private rights concerning their own, special affairs. The State, furthermore, was formed for the purpose of protecting by the right of sovereignty bestowed on it, the people and its single members in the enjoyment of their private rights. These, then, are the only parties to be governed by virtue and by power of the rights of the State sovereignty. The erroneous assertion mentioned before it also repeated, by those avers of single persons or corporations pleading for or demanding rights which, according to its principles, the State cannot grant, or also by those avers of the State making many regulations, which are dictated by many adjectives, but notwithstanding inattention. Thus corporations, aside their private rights can merely exercise such rights in their particular sphere as the State has specially granted them, and this only by authority and under supervision and responsibility of the State, just

in the same way as though a special officer had been appointed and authorized for the purpose.

John Washington, before the framing of the present Constitution, in his letter of the 15th of June, 1788, has put all this before the governors of the different parts of the country, and recommended it to their careful examination.

According to the Constitution, the United States, as their representation were intended with all those guarantees whereby their sovereign rights are amply proved.

A President was appointed as the head of the people and law representing the State corporately, and generally entitled to and empowered with the execution and protection of the same. After the Constitution only, then legal efforts must be attributed to the regulation of a certain case, when it has been made by or with the consent of the President. The power for the office of the President is checked every four years by the citizens through their delegates made for the purpose.

For the sake of a prudent consideration of the public affairs and of the prohibition of abuses in the execution of his rights and power in the different branches, a Senate and a House of Representatives stand aside with the President, with the rights of counsel and consent.

As to the execution of the sovereign rights, the Senate was endowed with the right of counsel and consent in such matters as concern the special rights, obligations and interest, general generally, of the single provinces, so as they have been received into the State, according to the Constitution, as independent corporations, that is, as far as the intermeddling of the State is necessary for those matters, be they interior or exterior ones. The members of the Senate are elected by the Leg Legislatures of the single provinces, which are called States.

The House of Representatives have the right of counsel and consent in all matters which touch the special rights, obligations and interest of the single citizens generally, so far as the intermeddling of the State is necessary for those matters, be they interior or exterior ones. The members of the House of Representatives are elected directly by the citizens.

By the different articles of the Constitution, therefore the President, representing all parties, under the partial counsel and consent of the Senate and the House of Representatives, is amply empowered for the execution of the sovereign rights of the State.

The single Provinces or States are limited to their interior affairs, as far as they pertain, within the boundaries of each, the regulation, maintenance and defence of private and family rights, as the security of the persons and the property of the inhabitants among themselves, in behalf of furthering the special welfare of the same. The single Provinces, in any case emerging, are bound to maintain and execute fully, within their limits, all laws and regulations the State issues for the whole and all treaties concluded with foreign countries. They are expressly forbidden to make such laws and regulations as are contrary to the Constitution of the United States or the public treaties. Therefore they are not allowed to conclude treaties with foreign countries, nor to involve in matters that concern interior or exterior affairs of the whole State or rights and interests of parties beyond their districts.

As to the rights and obligations granted to or imposed upon the single States by the Constitution of the United States, they are in every respect and effect in the same relation to the whole as every "individual family," namely as incorporated persons. For those, being generally independent, and enjoy likewise, within their limits, their private rights and regulate their interior affairs, but beyond those limits and in matters with exterior parties they are only joined to the sovereignty of the whole. The single ~~Provinces~~ States also received the right of their formation only by the Constitution of the whole State or this, at least now sanctioned, generally and especially by the latter. And, further, they have, since the separation from Great Britain, no other property and right than what they received, by contract, subjugation or otherwise, like a private person from the United States. In constituting the United States, only therefore more power and rights were granted or left to the single States, because, in consequence of the great extent of the dominions and the great number of people, their

was absolutely necessary. The natives of the more remote regions, on behalf of their situation and of different relations and interests here must have a certain point in their vicinity where their special affairs might have a proper representation, communication and regulation. The single States in their independent quality and in their position next to the State, were also granted every other right for the purpose of advancing their welfare.

The single States, severally, are independent corporations, both in all general and foreign matters depending on the United States and limited in their rights, so as to lack all those qualities on which alone the rights of sovereignty are properly founded.

Having these matters, to whose management the President, exercising the rights of sovereignty, is especially entitled and empowered for by the Constitution, to be remembered, according to an express resolution, the conclusion of treaties with foreign States. Therein is stated, that all treaties entered into by the President shall be legal and valid if two thirds of the Senate have given their consent.

The President of the United States, according to the Constitution, with the consent of the Senate, and not depending on the will of the House of Representatives, has full right and power to conclude treaties with foreign States on any object so long as the interests of the citizens is not endangered, to hinder which is the duty of the House of Representatives.

The breadth of friendship and converse in question was ordered into, in the year 1832 by the the President of the United States and the Free Hawaiian City of Honolulu, an entirely civilized State, putting the subjects mutually in the same position. By the same occasion, therefore the rights and interest of the single States were spoken of as of.

9
 Neither the rights and interests of the single Business, nor that nor
 those of States nor those of the single citizens of the same, were
 hurt by making this legal, because according to the laws of the

State of California and of the United States, nobody can raise a claim
on an inheritance as long as there are nearer heirs, and further,
because, a prisoner was complain in the United States of a seizure
for a nonqualified private contract between private persons.

The State of California was not received into the United States in the year 1850, as an independent corporation, when this treaty had existed and been in effect for 2 1/2 years.

Article IV par. 2 of the Constitution of the United States reads as follows:

This Constitution and the Laws of the United States which shall be made in pursuance thereof, or all Treaties made or which shall be made under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the contrary notwithstanding.

And in Article III par. 2, of the same it is to be found as follows:

The national power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and Treaties made or which shall be made under their authority; - to all cases affecting Ambassadors, other public ministers and consuls; - to all cases of admiralty and maritime jurisdiction; - to controversies to which the United States shall be a party; - to controversies between two or more States, - between a State and Citizens of another State, - between Citizens of different States, - between Citizens of the same State claiming land under grants of different States, - and between a State or the Citizens thereof and foreign States, Citizens or Subjects.

and Challenging the validity of said Treaty, and not considering the same in the case in question, the Supreme Court of the State of California has decided against the revocation of the United States, the existing laws and public treaties, and has also granted, and unrolled for review the suspension of a State's Court.

And lastly, those judges of the Supreme Court, by their opinion in this decision, have officially indicated to overthrown the Constitution of the

Public Statute enforces to attack the sovereign rights of the home, which in any other State is considered the highest crime that an officer may commit.

Although the entire execution of the judges of the Supreme Court of the State of California pleased to set forth in their opinion are mostly related in the preceding, still some remarks are to be made on the facts and apprehensions which bear on our judges, and on some other points.

There is no fear, that President and Senate might become guilty of abuse and transgression of power in the cancellation of public treaties without some precautions existing against this. But such measures as they have proposed for the purpose will not carry on any catipeter, long receded in the present situation, no more, it is believed, than the soil of delinquent judgment by inferior courts, that trespass on the general principle, the Constitution and laws of the State, and the private and family rights of the citizen. And writing and issuing treaties on the public institutions, as done by said judges, is not their office and also usual.

If it should ever happen that for President and Senators of the United States such persons should be elected no more or are pointed out as the gnomes of the people and may be considered as such, and if there could be no more relied upon them for the exercise of the sovereign rights of the State, then it would be done with the United States, they would fall into pieces, soon and unacceptably perhaps by some shock from without, as it was the lot of Rome, Venice and other great States of former times, that were admired by, and ruled the world. The cause of the decay and fall of these great States, that have been, is to be found in the division ^{misdirection} of the rights and power of the State and in the unmitigated and depravity of their public functionaries, who abused and crushed down their fellow citizens, seeking for their luxury and dissipation the blood of the people.

California is no slave State, and by her constitution has forbidden slavery within her limits. The judges of the Supreme Court would therefore

and refer to the law of Slave States in a case of private and family rights of Citizens of California and their relations; for this is not blood in the same part taken with slaves, as a third party, nor with those States where slavery exists. In behalf of the Slavery of some States, the Citizens of the others are not obliged to diminish or give up their relations with other civilized nations, even not if this be deemed useful or necessary for the maintenance of the whole. Slavery is an evil in the United States that will be attended with the most terrible consequences, if being against the spirit of true republican institutions and altered by the abolitionists would, but as to those States where it exists, the regulation and settlement of this matter is as a private right to be left to those very States without interference or reaction, and vice versa. The Southern States, consequently, should not accept any friend ship from the Northern, as far as Slavery is concerned, for in this case they would have to take their own duty too.

The assertion that the political institutions of the United States are
 spher than slave in Europe, is quite new, but the thing itself is old, and it
 seems that it has only been unknown by the ~~English~~ ~~the~~ ~~three~~ ~~within~~ party
~~and~~ has judges of the Supreme Court. For there it is Europe & Confedera-
 tion of States, that contains none but sovereign States, and it perhaps
 the only one of that kind. This is the ~~same~~ ~~Confederation~~ ~~which~~,
 however, exists under circumstances entirely different from those of the
 United States.

The German Confederation of States as an independent corporation does not hold possession of so much land as would be required for a chief thereof to lie down and rest. If it nobody is declared as considered chief, it has no right of making laws or concluding treaties, the subjects or citizens of the single States are not represented with it, it cannot levy taxes or tolls, has no certain income and exp. disburse, no military, no paid institutions, no mint, nor anything whatever that might prove the existence of a State. It is only a Confederation or League of the sovereign States that form it and an interior institution for the maintenance of harmony and unity, the prevention of war and the prosecution of the amicable

of the single State, as also for a safe partition and mutual protection against other countries.

But the single State possess all qualities and rights which are required for sovereignty. This is visible, among themselves and with other States, besides as it seems meet to them, and each of them has ambassadors, Cons or Consuls in the other States, for its representation, just as in foreign ones.

There is, however one State in Europe that has more rights than any of the United States can have. None of them has so many rights as this, and notwithstanding it stands under the sovereignty of another State. This is Hungary.

Hungary has its own language, legislation and military institutions, holds its own laws and holds, even from other parts of the Austrian Empire, under difficult the acquisition of citizenship, even to the subjects of other parts of the Empire, except the Germans, and had still bondage in the year 1848, while this was forbidden in the other provinces, besides many other specialities concerning its interior affairs.

Supposed, now, the United States had made the same treaty with the Emperor of Austria, - Hungary not excluded, - as with the free City of Lubeck, and an inheritance in Hungary had fallen to an American, or as it fell here to some person from Lubeck in a case, or some injury had been committed to the person or property of an American in that country, - would the United States listen and submit to the objection of Austria, that this was an interior affair of Hungary, or that Austria had no power on the affairs of that country? - certainly the United States would not pay no regard to the relations between Austria and Hungary in their interior affairs and to the law arising with regard thereto, - neither the officers who injured the American citizens were appointed by the Emperor of Austria, or by the King, or elected by the people, or to the design of swindling lawyers and the decisions of ignorant, partial judges. Even if no treaty existed, the

United States, most likely, based on the law of nations and general, moral principles of justice, would claim the inheritance for their citizen, or insist for him an even indemnification with the Austrian Government.

They might perhaps increase relations if Austria did not comply with the demand, and if she matter did deserve it, they might even condemn Austria, that would likely be directed against the inhabitants of the shore of the Adriatic, who have another language, other political institutions, and many other things else than Hungary, being of other nationality than the people of the latter, and having nothing common with them other the misfortune to be subjected to the sovereignty of Austria.

Those Professors, with reference to the accompanying free State, most of this case, have endeavored to prove that the decision of the Supreme Court of the State of California in question is illegal and unjust and offends against the general principles, against the law of nations, against the Constitution of the United States, and that of California, the laws of the same, the general moral principles of justice and the public treaties, and further, that the United States, according to the treaty often before mentioned, under this circumstance, are obliged to perform their duty to the Government. For as the United States have concluded this treaty and warranted its maintenance, they are responsible for those officers, who, according to the laws and institutions of the United States, are appointed to execute ^{by the} the laws and adapted Constitutions of the single States are appointed to execute their rights and powers, in foreign affairs.

Joseph Bloomer Newcomb.

San Francisco North of Valer 1857.

Reflections

Henry Meyer - Deceased - his heirs
Lempson et al. vs. Meyer

San Francisco, State of California

Salomon

Samson et al. vs. Raper.

Young Frederick H. Hoyer (Hoyer) in America called Henry Hoyer, born 1810 in the free Hanseatic City of Hamburg in Germany, emigrated 1840 to the United States of America and arrived in California in the month of September 1849.

In the years 1850 and 1851 he acquired a piece of land in the City of San Francisco, fronting sixty feet on Bush Street, by 25 yards of depth on Helweg Place, between Montgomery and Kearny Streets, a part of the city little improved at that time.

On the 30th of April 1852, Henry Hoyer leased a portion of this property to Bernhard Raper, as a building lot, for a monthly rent of forty dollars and for a term of two years, with the privilege of three.

During his sojourn in California Henry Hoyer worked sometimes in the mines and sometimes as a carpenter in the country, and therefore was often absent from San Francisco. For this reason he empowered by a document subscribed by three witnesses, on the 9th of February 1853, his friend Joseph Nicolau Pauson, of the City of San Francisco, to administer his property, to collect the rent thereof, and, in case of his unexpected death, to sell his estate and to send the proceeds thereof to his three sisters still living, in the City of Hamburg, and bring his legitimate heirs over.

On the 6th day of August, 1853, then being sick in the City of San Francisco, he repeated said power of attorney before a minister and had it acknowledged by a notary public, putting at the same time his friend Joseph Nicolau Pauson, thereby appointed his attorney, immediately in possession of all he had, declaring also that in case of his death said attorney should take direct possession of the inheritance, on behalf of his heirs over. - Recorded in Liber 3 of Deeds Page 391

In the night from the 7th to the 8th of August 1853 Henry Hoyer died in San Francisco.

After his death a sealed document was found among his papers,

addressed to Joseph Salsano Bawock, dated February 9th, 1854, wherein was contained the same as decreed before witnesses and notary, had disposed about his estate in the writings mentioned above.

The said agent in consequence prayed for letters of administration, in the Probate Court of the City of San Francisco, which, after producing the necessary papers and hearing the witnesses before mentioned, were granted to her.

The agent, and as that same administrator, having informed the sisters in Germany of the death of their brother, thereupon received a legal certificate of their being the legitimate heirs, and a power of attorney from the heirs themselves, executed and acknowledged, on the 12th of November, 1853, before the Senate of the free Imperial City of Frankfurt. The following persons, to wit:

1, Catharina, Elisabetha Heyer, married to Hermann Friedrich Simpson,

2, Dorothea Elisabetha Heyer, an married, - and

3, Anna Maria Heyer, an married.

said Maria declared lawful heirs, and by their power of attorney Joseph Salsano Bawock was appointed and empowered to sell the estate, pay the debts and costs, and read the balance over to them. -

Recorded Liber 4, of Power, Page 510. - This power was sent by the agent ^{with the power of the heirs} to the President of Washington March 20th 1854.

On the 2 of April 1854, by order of the Probate Court, after examining and approving of the accounts, the said administration was declared closed, the administrator released from his charge and bonds, the real estate still existing reserved for the heirs as aforesaid and put at the further disposition of their actual attorney. - Recorded Liber 9th of this, volume, Page 624 - 625.

The agent afterwards sold several parts of the property, to wit: one for \$1000, and twice for \$1000. The amount of money was so large, because the piece of land in course of several years had very much increased in value by the cultivation and enlargement of the city.

But never could these portions be delivered to the buyers free and

without incumbrance, because Bernhard Rasper, who was in arrears since the month of September 1854, with the payment of the rent, refused to give up the possession of the property, and to pay the rent due. Wherefore all these sales had to be annulled by the agent with great expense.

He, the agent, therefore made complaint at the 12th District Court, in the name of the heirs, against Bernhard Rasper. After several preliminaries, by decisions on different questions, and after repeated postponements of the final issue, judgment was given by the court against Rasper to deliver up the property, and pay the arrears of rent due. But the latter appealed from this decision to the Supreme Court of the State of California, and after a long time - the proceedings having been retarded by postpones in this Court too, and delayed especially by leave of absence for Judge Hudsonsolt, and the arrest of Judge Terry by the law matter of Vigilance, Calist - the following judgment was given. Exhibit A.

This decision was but communicated to the agent when the term of three years for selling, sold out in the hands before mentioned, between the United States and Esch, so heirs not living in the country, had passed.

Meanwhile the agent, Joseph Salsano Bawock had bought the lot in question from the heirs for \$5,000, in consequence whereof he now made complaint against Bernhard Rasper in his own name, in the 12th District Court and several decisions were made against Rasper for delivering up the property and paying the rent due. Against the last decision, however, Rasper appealed to the Supreme Court.

Under these circumstances the proprietor, afraid to find no proper guaranties even as a citizen of the United States, endeavored to end the matter, by putting himself in possession, quasi by force, and he afterwards sold the piece of land in public auction, receiving but \$1,000 for the same.

This small amount was accounted for by considering that, after the laws of this State, Rasper had no time for his appeal, and also that in California, in consequence of the ruling corruption among the officers of the law together with the winning of the attorneys, the sale and loss of a suit are often impercably and finally, shut by a decision of the Supreme Court the title could not be recovered.

Of this sum of \$1,000, after deduction of the costs of sale, scarcely one half of the expenses could be covered which during the proceedings were to be paid for taxes, street cleaning, repairing and costs and fees for costs and by lawyers.

All these expenses were to be made constantly, without earning the least profits from the property, only for the purpose of not losing by any one the right of the purchaser thereof.

There being no funds left from the inheritance, the agent had to bear all the expenses himself, but having not so much cash money, he was compelled to borrow on his own property, at a high rate of interest, and he was not able to get to pay this off entirely. He owed more money on his real estate he made not, as the same is situated within the Encinitas and also the Baller & Barron Claim, and of no value except for him who held possession thereof. But, as to those claims, which were not produced but after the institution of the United States Land Commission, - in a somewhat long way, - notably having known any thing thereof before, they must still will not receive a final decision for years, and meanwhile cause great costs.

A reimbursement of the expenses made and not recovered, as also an indemnification for the illegal use of the property during the proceedings cannot be expected at all from the part of the defendant, for besides the houses on the land in question, which are badly built and much deteriorated by neglect, he has no property whatever. The bonds he had given to carry out the suit were gradually made and not worth one cent, more or less afterwards could be found no more in court. Rogers had a change paid his lawyer from the rents which he received for the houses on the property and for those portions thereof that he had leased as building lots.

The reason of Rogers being so so pertinaciously to the land in question was because his attorney had made him hope that he might retain it afterwards as his property. Very often in California the attorneys of the two parties will gain influence the judges and try everything

to prolong the suit and turn it to profit for themselves, and this, not unlikely, may have been the case in this instance, too. But in this country the lawyers will generally ask for one half of the amount in question and if they are not allowed this, they will look out to get it in some other way. In this case, if even they endeavored to cause the longest possible delay for the purpose, that the three years allowed the heirs to sell real estate might pass, and that meanwhile the agent of the same might become tired by paying such exorbitant costs and losing so much time, and that they might get unmanageable possession themselves.

Besides the arrears of reimbursement to the agent for costs of suit, law paying, trouble and great loss of time during the proceedings, - besides this the loss suffered by the heirs for amounts to about \$1,000.

Under these circumstances it became altogether impossible for the heirs to carry on their claim further. For there was no more money left from the inheritance to defray the expenses, and the agent who had done this as far, was unable to continue doing so. And he also did not like to do so, because, on account of the administration of the law and the officers connected therewith in California, he had abandoned all hope of obtaining justice and prohibition of that property, all which can only be acquired here by either spending much money or applying to helping oneself.

And further, after the decision of the Supreme Court of this State, there did no more exist a question on fulfilling a private contract and on the lawful possession of a piece of ground because of private parties, but a question on the right, existing here, of inheritance and law ruled by persons residing in foreign countries, - said right having been controverted because, as it pretended, the possession of the inherited real estate till the time of sale, and also the free sale of the same is prohibited to them.

And finally the question of the validity of a bond before

marriage, between the United States and the free hereditary City of Lubbock, concerning said right, is raised, in which validity the agent had depended much very much, but which in consequence of an article in the Constitution of this state is said to be without effect.

All the differences, so as they appear after the decision of the Supreme Court, - except the original complaint against Snipes, - whatever they may be, can only be considered and treated upon separately in each single case, according to circumstances and the special state and condition of the parties concerned, and at the competent courts, and not before their having been settled a final decision can be delivered. And while the proceedings are going on no third party is permitted to appear in court without the authorization of the legitimate party, and claim the rights of the latter, if the same, under different circumstances, possesses other qualities than those of a private person that is endowed with equal rights.

As to the fulfilment of a private contract and as to the right of possession of the piece of land in question, Henry Hoyer, or his legitimate heirs on the one part, and Bernhard Becker on the other part, were the only parties concerned and competent that might sue each other, whose cause in court as the circumstances existing and the nature of the contest might require, and then finally rest on the decision of the case. But concerning the maintenance and protection of family and other private rights by the State in connection with the right of inheritance, possession and legal proceedings in a case of real estate being inherited by persons living in foreign countries, - in such a case the citizens of the State as well as the foreign heirs have to discuss the question with the State only, if they feel compelled to complain of each other, for according to law the estate of a deceased who has no legitimate heirs shall devolve to the State. To what extension and effects, and under which formalities, the United States, by their sovereign power, may

enter into treaties with foreign States, and further in which way and in which degree such treaties will affect and bind the single States of the Union, - this is a question only to be settled by the latter and the General Government. And as to the maintenance of the heirs by their mentioned, in their respective dominions, the United States and the City of Lubbock are responsible to each other.

While in all these matters and in each single case on the one side each party has to appear before the ordinary judge, if the other party has given reason for complaint, or, on the other side, the judge can only deliver a lawful decision after being informed by the competent parties on the merits of the case and after having been called on for the occasion. And then the decision is to be founded on the proper laws with positive dispositions and on moral principles, in as much as they may be justly applied to the case.

Besides the limits of the single State, the Supreme Court of this State included, are only entitled to decide on issues of private property, and on those relating to the interior affairs of the State and on contests between the citizens of the same or their legitimate heirs. In foreign matters, and thus when the State itself as a person beyond its limits is a party and the rights of the same are to be discussed, the lawful decision belongs exclusively to the limits of the United States.

It can therefore not be supposed, that a private person without the recognition of legal title and authorization by the different parties concerned, as it occurs here, should carry through, on his own responsibility these disputed matters, so important in many respects to a definitive decision. And the likewise is not meant a final judgment any more, so much the less as, under the circumstances mentioned, nothing could be gained thereby now, and as by continuing the suit the whole inheritance would be consumed, even if it amounted to hundreds of thousands of Dollars.

Also the heirs, for want of funds, can acquire no more

anything by legal proceedings, there is only one way left open to them, that is to apply to Congress an account of the loss of the inheritance and for reasons of equity, to pray for an indemnification. For a treaty concluded between the United States and a foreign country has not been put into effect, here, within their dominion, this is the very reason that the heirs have lost the inheritance, and the United States are responsible for the maintenance of treaties.

Joseph Vincent Hancock.

San Francisco Month of July 1887.

Statement.

Henry Hager deceased - his heirs are
Sampson and or Sister

San Francisco, State of California

To the Honorable S. Douglass, Senator
of the United States in Washington.

Sir!

I take the liberty and communicate to you a Decision of the Supreme Court of the State of California, because the rights of the President and the Senate of the United States were attacked therein.

Being the Attorney in fact of the Heiresses described in the cause wherein said Decision was delivered, and intending, as such to pray Congress for an indemnification in consequence of the lost inheritance. I have made a true statement of the case and also written some reflections on the said Decision proving thereby not only the validity and efficiency of the public treaty in question, but also the right of the Heiresses to an indemnification from the United States. I take the liberty to communicate them to you as a member of the Committee on Foreign Affairs, begging you to please to inspect them and give them your attention.

I am

Your Honourable

most obedient and most humble

Servant.

Joseph Nicholas Pauvoh.

San Francisco 5 February 1858.

San Francisco, Cal
Feb 15 1878.

Jos. N. Ransom-

Decision of the
Supreme Court of
Calif. with comments
enclosed.



Cincinnati Feb 5th 1858
 Hon^{ble} S. A. Douglass

Sir altho I am a stranger
 to you I am well acquainted
 with you Politically, and I must
 Congratulate you on your great
 speech at the opening of Congress
 and I think you have a fine chance
 to slay some of them skunks, before
 you get thrug with them
 I do not wish to flatter you but I
 tell you, you are the best;
 great man of the west, and the
 Democracy will stick to you I think
 almost to a man. I wish you would send
 me a copy of your speech, and also a copy of
 the Japan Expedition. If you have one
 and I would like the first + second
 vols of the Rail Road Survey
 with much Respect I remain your truly
 George Snyder

Geo Snyder
Cincinnati

Ohio
Feb'y 5. 1858.

Commendatory
wants speech -

Japan Expedition

Pacific R. Road

Survey

Clarksville Texas
July 5th 1858

Sir

Although a stranger I hope
you this to request that you have
addressed to me all of your principal
speeches which you have or may make
during the next session of Congress

I am a democrat and know that
there is at this time confusion in the
party and in all probability there may
be a general split for this reason I
wish to see the speeches of all

I take the Union but that is a
meddled affair, My address is
Clarksville Red River County Texas

Though this will be made at different
times I am a native of Illinois

Yours &c

Harry

W B Stout

J A Douglas

Washington

Clarksville, Tenn.
Nov. 5th 1888.

W. B. Storr.

Wants Kansas Specimen.

Cincinnati, Feb'y. 5th 1858.

Hon. S. A. Douglas,
Washington,
Pa.

Sir, I ought to have thanked you before this for a copy of your speech. I heartily agree with you that every constitution should be submitted to a direct vote of the people. But under existing circumstances I am inclined to think it will be for the good of the Country generally, and of the Democracy, to accede to the recommendation of the President.

His arguments in the message on the Lecky Constitution are hard to withstand. His appeal to the patriotism of Congress is almost insupportable.

I trust the good of the whole Country, North & South, will be kept in view by those who have in their hands the disposition of this great question.

I hope you will pardon my prolixity.

With great respect
Yours &c.

W. Van Hook

Cincinnati, O.

Febr 5 / 58

W. Van Hook

Thanks for yr
speech. & agree
with both you &
the Pres. —

✓

Anderson Co. W. S. C.
Feb'y 5th 1858

Hon Stephen A. Douglas
Washington,

Dear Sir, As a warm
National Democrat and admirer of your
Talents and Services, I beg that you will
indulge me in addressing you a few
lines. And in so doing I shall have but
one ^{end} in view, and that is to ascertain
your true position upon the Kansas
question, and attitude towards the
Democratic party and the South. You
will the more readily perhaps admit
the propriety of this enquiry, when you
learn by reference to Hon J. L. Orr that
in this Community you are highly
esteemed; have been endorsed at the
largest Mass meeting ever convened
in South Carolina as "The Calhoun
of the West" and proudly pointed to
as a future President of the Confederacy.
You cannot question the Sincerity of
your friends here, in desiring to know
your true views upon the one absorbing
Cover

question of Kansas. Your position heretofore has been well understood and approved, but since the opening of the present Congress, letter writers, telegraphic dispatches and Newspaper Editorials have represented you as adverse to your former position and policy - as opposed to the obvious principles of the Kansas Bill, a disturber of the peace and harmony of the Democratic party, and comforter of the Black Republicans. This charge we cannot believe, for your past brilliant services in the Senate, and open, manly defence of the right, encourages us to believe that you have been misrepresented. Still we appeal to you for information. And you cannot fail to discover the singular propriety of this appeal, when you remember that it is but recently that a Democratic party with national affinities has been organized in this State. Previous to the last Presidential Campaign, our people were restrained from acting with their Northern brethren in Convention, from a distrust of their fairness

and fidelity to Constitutional principles; and I do not flatter you when I assert that your course together with the influence of Col Orr, induced them to banish their fears and go into the Cincinnati Convention. In the debates which occurred at that day upon the policy of going into that Convention, when charges of unsoundness upon the Slavery question were preferred against Northern Democrats, were pointed proudly and defiantly to your record and that of other distinguished gentlemen, as a refutation of the charge, and won the day. Now, your reported abandonment of your Kansas policy and apparent desertion of our party, is hurled at us with terrible effect by the extremists, and distrust is being diffused into the ranks of our party; and unless you come to the rescue by a candid avowal of your position, our party will be soon numbered among the things that were, and become a "school boy's tale, the wonder of an hour."

Referring you to Messrs. L. Orr & A. D. Stephens, I have the honor to remain
Your obt. Servt. Warren L. Belknap.

Anderson. C. H.

S. C. - Feb 5/58

W. D. Wilkes

Political
"important"

ought to have
recent speeches
such a debate at
Ottawa &c —

✓