

## Statement of the Case.

notice of the days of public general elections of members of the legislature, or of a convention to revise the fundamental law of the State, as well as of the times of the commencement of the sitting of those bodies, and of the dates when their acts take effect. 1 Greenl. Ev. § 6; *Brown v. Piper*, 91 U. S. 37, 42; *Gardner v. Collector*, 6 Wall. 499; *Hoyt v. Russell*, 117 U. S. 401; *Jones v. United States*, 137 U. S. 202, 216.

It is obvious, therefore, that, even if the bill could properly be held to present a case within the jurisdiction of the Circuit Court, no relief within the scope of the bill could now be granted.

*Appeal dismissed, without costs to either party.*

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### GILLIS v. STINCHFIELD.

ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

No. 661. Submitted November 11, 1895. — Decided November 25, 1895.

The decision by the highest court of a State that the grantor of a portion of the ground of a mining claim is estopped, on general principles of law and by the statutes of the State, from claiming priority of title to a space of vein-intersection within the granted premises, by reason of his locating the portion retained by himself before a location of the granted portion by his grantee, presents no Federal question.

THIS was an action brought by Stinchfield against Gillis and others in the Superior Court of Tuolumne County, California, to recover the value of certain gold alleged to have been taken by defendants from the mining claim of plaintiff. Gillis, for many years, had held and asserted ownership of a mining claim known as the Carrington, and had sold and conveyed by deed of grant, bargain and sale a portion of the ground to Stinchfield. Immediately after executing the deed to Stinchfield, Gillis located that portion of the claim which he retained, and denominated his location the Carrington, and afterwards Stinchfield located the ground he had purchased and denominated it the Pine Tree claim. Thereafter Gillis,

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or those under him, entered upon the ground he had sold to Stinchfield at the intersection of two veins, one of which had its apex in the portion of the original claim which Gillis had retained, and the other had its apex in the ground sold to Stinchfield, and dug out and appropriated a large amount of gold, the space of vein-intersection from which the gold was taken being entirely in Stinchfield's ground.

The trial court gave judgment for Stinchfield, and Gillis appealed to the Supreme Court of California, by which the judgment of the lower court was affirmed. 40 Pac. Rep. 98. The Supreme Court was of opinion that Gillis was estopped, under the law of California, by his deed to Stinchfield, from claiming priority of title to the space of vein-intersection by reason of the location which he had made after the execution of the deed, but before the location by Stinchfield of the ground conveyed to him. The same conclusion had been reached and announced on a former appeal. 96 Cal. 33.

A writ of error from this court having been allowed, a motion to dismiss was submitted.

*Mr. M. A. Wheaton, Mr. T. M. Kalloch, and Mr. F. J. Kierce* for the motion.

*Mr. J. C. Campbell, Mr. F. W. Street, and Mr. J. F. Rooney* opposing.

THE CHIEF JUSTICE: Neither in the pleadings nor in the proceedings during the trial, nor in the specifications of error below, was any Federal question specifically raised, nor was any right, title, privilege, or immunity of a Federal nature set up or claimed. *Sayward v. Denny*, 158 U. S. 180. It is, however, contended that the record shows that a Federal question arose in the case, as considered by both the Superior and the Supreme Courts, and was decided adversely to plaintiffs in error, namely, that Gillis had the right to follow what was known as the Rice vein, which had its apex on the Carrington mine, upon its dip, beneath the surface of the Pine Tree mine, and to appropriate to his own use the gold found

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in that vein at the point of its intersection with the so-called West vein, which had its apex on the Pine Tree mine, because the Carrington mine was the older or prior location; and that this could only be determined by an application of sections 2322 and 2336 of the Revised Statutes. But the decision of the Supreme Court was clearly based upon the estoppel deemed by that court to operate against plaintiffs in error upon general principles of law and the statute of California in respect of such a conveyance as that to Stinchfield, irrespective of any Federal question. And this was an independent ground broad enough to maintain the judgment. The writ of error must, therefore, be dismissed. *Eustis v. Bolles*, 150 U. S. 361; *Rutland Railroad Co. v. Central Vermont Railroad Co.*, 159 U. S. 630.

*Writ of error dismissed.*

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LAMBERT *v.* BARRETT.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR  
THE DISTRICT OF NEW JERSEY.

No. 771. Submitted November 11, 1895. — Decided November 18, 1895.

The several questions raised by the counsel for the petitioner are matters for the determination of the courts of the State, and their determination there adversely to the petitioner involves no denial of due process of law, or the infraction of any provision of the Constitution of the United States.

The administration of justice ought not to be interfered with on mere pretexts.

THIS is an appeal from a final order of the Circuit Court of the United States for the District of New Jersey, denying the petition of Theodore Lambert for a writ of *habeas corpus*. It appeared from the petition that Lambert was convicted by the verdict of a jury, June 15, 1894, of the murder of William Kairer, in the court of oyer and terminer and general jail delivery of Camden County, New Jersey, and sentenced, October 13, to be hanged on December 13, 1894; that on the