

say: "In such cases the courts of the United States are not required to follow the decision of state courts." The distinction made by counsel we cannot adopt. Whether a statute of a State is or is not a revenue measure certainly depends upon the construction of that statute. Besides, if in any case we should lean to an agreement with the state court, this is such a case. There is no Federal right involved. The question is one strictly of the state law; and the power of one of the municipalities of the State under that law. If we should yield to the contention of counsel we should give greater power to one of the municipalities of the State than the law of the State, as construed by the Supreme Court of the State, would give it. We should enforce against petitioner a tax which the Supreme Court of the State, construing a state law, would not enforce. The result of the contention indicates its error.

Judgment reversed and cause remanded for further proceedings in conformity with this opinion.

WHEELER *v.* PLUMAS COUNTY.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE NINTH
CIRCUIT.

No. 122. Submitted January 12, 1905.—Decided February 20, 1905.

Decided on authority of *Flanigan v. Sierra County*, *ante*, p. 553.

THE facts are stated in the opinion.

Mr. C. C. Cole, *Mr. Joseph C. Campbell* and *Mr. Thomas H. Breeze* for petitioners.¹

Mr. U. S. Webb and *Mr. L. N. Peter* for respondent.¹

¹Submitted simultaneously with *Flanigan v. Sierra County*. For abstract of arguments see *ante*, p. 553.

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Syllabus.

MR. JUSTICE MCKENNA delivered the opinion of the court.

This case was submitted with *Flanigan v. Sierra County*. It is also an action for the recovery of a sum of \$2,100, alleged to be due for license tax, and \$50 damages. The taxes were imposed under an ordinance of the county of Plumas, substantially similar to the ordinance passed on in *Flanigan v. Sierra County*. The action was brought in the Superior Court of Plumas County and removed, upon the petition of the petitioners herein, to the Circuit Court for the Northern District of California. In that court, petitioners demurred to the complaint, which, being overruled, and they declining to answer, judgment was taken against them by default. It was affirmed by the Circuit Court of Appeals.

The questions are identical with those passed on in *Flanigan v. Sierra County*, and on the authority of that case the

Judgment is reversed and cause remanded for further proceedings.

McCAFFREY v. MANOGUE.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF
COLUMBIA.

No. 131. Argued January 17, 18, 1905.—Decided February 20, 1905.

The policy of the law in favor of the heir yields to the intention of the testator if clearly expressed or manifested. The rule of law that a devise of lands without words of limitation or description gives a life estate only, does not apply, and devises will be held to be of the fee, where it is plain that the testator's intention was to dispose of his whole estate equally between his heirs, and there is no residuary clause indicating that he intended passing less than all of his estate, and all of his heirs at law are devisees under the will.