

and as such they assigned her a child's part of his estate. It is now proposed to prove a circumstance which cannot establish the fact of her illegitimacy, and at most affords only presumption of a weak character, that the charge is true. The court, with the whole case before them, found the fact to be otherwise; and in the opinion of the committee, the new proof now offered, is not calculated to change or affect that expressed opinion.

Some of these considerations also impel the committee to the opinion that it is inexpedient to grant any stay on the execution of the decree, until a bill of review shall have been filed and decided. The disastrous consequences deprecated by the memorialists might result to them because of the disadvantages and inconveniences which are always felt by the termination of a law suit. But it does not appear but that to grant this part of the application would be equally ruinous to the hopes of the complainants. The decree affirms that Mrs. Ewing is the heir of Henry Moore, and as such entitled to all and singular the estate, real, personal and mixed of her father. Her rights are thus ascertained and acknowledged by our court, in the last resort, and the committee clearly think that the most cogent reason only can authorise any interference with the further prosecution of them. Any action by the Legislature to this end would most certainly affect those rights, and none can tell to what extent any delay would impair and perhaps destroy them. The argument *ab inconvenienti*, applies more strongly in favor of the counter memorialists, under our view of the case; and as this seems to be the surest guide in such applications, we think that they should not be impeded in availing themselves of their decree.

Considering all the circumstances presented in the memorials, the committee are of opinion that it is *inexpedient* to gratify the prayer,—they therefore ask to be discharged from the further consideration of the subject, and recommend the adoption of the following resolution:

Resolved, that the memorialists have leave to withdraw their memorial.

Respectfully submitted,

WILLIAM H. TUCK,

On the part of the committee.

N. B.—At the request of Mr. Maulsby, one of the committee, it is stated on the report, that he declined sitting in this case, because of the relation in which he stands to some of the parties.