

would have extended the remedy, but that decision has already been made by the Court of Appeals, and he should follow it. It has been acted under for six or seven years, and no legislation has taken place to annul it. He should, therefore, adhere to it.

The Chief Justice said: "Consent cannot give jurisdiction, Mr. Rogers. The Court has no power to hear the appeal now, even with the consent of the respondents. It must be placed on the docket of the next term."

Thus ended the fight in the courts against the convention. The docket entries in the clerk's office of the Court of Appeals contain the following notation on April 8, 1867: "Appeal dismissed, for want of jurisdiction under ruling of the Court in case of Steigerwald vs. Winans, by a majority of the Court. Bartol, J., dissented."