

The heirs at law, had taken initiative proceedings in her State Courts, which thereby had obtained complete jurisdiction of the case, to the exclusion of the Federal Tribunal, into which the expected suit of the heirs would have carried her, had it been first instituted. The importance of this movement, on the part of Louisiana, was evident. Had the case been entered in the United States Courts, no one could have foreseen the period of its termination, nor the cost of its prosecution. Moreover, the jurisprudence of Louisiana being, mainly, derived from the civil law, and resting, principally upon Roman, French, and Spanish authorities, and the decisions of her Supreme Court, her Judiciary was the proper Tribunal, before which to try the issues involved in the case. The interest of Louisiana and Maryland is contingent only, under the will of McDonough. If the legacies to Baltimore and New Orleans should lapse, from any cause, then, it is provided, in the will, that, Maryland and Louisiana shall, as residuary legatees, severally take them, to be sold in trust for the purposes contemplated by the testator, in the bequest to the Cities. After a careful consideration of the will, and in view of the opinions of able Counsel, upon which the State of Louisiana had already acted, I felt justified in entertaining doubts, as to the capacity of the Cities to take the legacies, for the causes herein before assigned. Although, I had not formed a settled opinion, nevertheless, I considered that, even a reasonable doubt imperatively called for my immediate action, in the premises; the Legislature not being then in session, to whose superior wisdom the matter could be referred. I regarded the intervention of the claims of Maryland as necessary to insure, absolutely, the protection of the estate against the suit of the heirs at law. If the Cities, which are the first legatees, can take a fall, it must be, by the strength of their own title, upon the face of the will. It must be, because the conditions and limitations are practicable, and not in violation of public policy. It is, therefore, utterly immaterial, so far as their chance of success is concerned, who else may be party claimants upon the record. If McDonough had created no residuary legatees, and had left no heirs at law, the invalidity of the will might simply have worked an escheat to the State of Louisiana. Therefore, the appearance of Maryland and Louisiana, as litigants, can, in no wise, prejudice the rights or interests of the Cities; between which, and the heirs at law, the real issue now exists, even though the States should ultimately be successful. As the objections, (if sustained,) which apply to the right of the Cities to take the legacies, cannot be extended to the States; and, as the States are next in interest to the Cities, under the will; it follows that, the heirs at law, if successful as against the Cities, must then encounter the still more formidable claims of the States. Now, the very simple deduction, from these several premises, is, would it not have been folly to have suffered the States to stand aside, and trust the vast property, involved in this controversy, to a single issue between the Cities and the heirs? I thought so; and, accordingly, I resolved to make Maryland a party to the proceedings, instituted by Louisiana. For that purpose, I employed Messrs. Elmoro and King, two distinguished lawyers, resident in New Orleans; who were, already, associated with the Attorney General of Louisiana, as of Counsel for that State, in the same case. I will take this occasion to say, that, my reason for employing Counsel, resident at New Orleans, was, that the case might be the more promptly, uninterruptedly, and economically attended to. In the letter of instructions, bearing date the 21<sup>st</sup> of January, 1851, addressed by the Secretary of State, under my directions to Messrs. Elmoro and King, they are expressly advised of the policy above set forth, and instructed, as to the reasons, which have placed Maryland upon the record. They are, also, notified that, the question of compensation for their professional services would be submitted to your action; and, that, the Executive would not assume authority to enter into any contract, relative thereto. They have very generously and confidently consented to abide by your