

He invested the \$400 in another slave, and sold the other for \$6,000, evidently in Confederate money. For this he settles a claim which, scaled down, amounted to \$3,265.62, and which, after the land was sold and proceeds applied to it, left, with accrued interest, \$3,229.53, a specialty debt against a perfectly solvent estate. This attempt by the indorsement to settle the Raymond note to the trusts of the deed is null and void as to creditors. Nor is there any evidence of an adverse holding by the trustee, which can give currency to the statute of limitations as against the assignee. Not only was there no notice of the trust until 1875, but when it was disclosed W. M. Thomas claimed the note as his own property. The bankrupt cannot plead the statute against his assignee. Mrs. Thomas has departed this life. The children are not parties to this suit. This is not necessary. *Vetterlein v. Barnes*, 124 U. S. 172, 8 Sup. Ct. Rep. 441; *Avery v. Cleary*, 132 U. S. 604, 10 Sup. Ct. Rep. 220.

William M. Thomas claims counsel fee for his services in securing the fund. He was not bound to render these services. He conducted the case of *Thomas v. Raymond* in the state court by his attorneys, Messrs. Perry & Perry, then by Messrs. Earle & Blythe, and when they went out of the case managed it himself. He was in all the litigation over the Raymond estate,—the record shows at least three cases. He is entitled to reimbursement for money expended and to compensation for services rendered in protecting the claim represented by the Raymond note.

Let the case go back to Mr. Seabrook, who will inquire and report what services were rendered, and what sums were expended by William M. Thomas after the adjudication in bankruptcy in redeeming the pledge of the note of Mary Raymond and in the suits of *Thomas v. Raymond*, *Warren v. Raymond*, and all other suits growing out of the contest between the mortgagees of H. H. Raymond and the creditors of his mother, Mary H. Raymond, and the value of such services. When these are ascertained, they will be paid out of the fund, and the remainder will be paid over to A. Blythe, assignee.

In re AH KIT.

(Circuit Court, N. D. California. October 27, 1890.)

CONSTITUTIONAL LAW—FOURTEENTH AMENDMENT.

City ordinance No. 2191 of San Francisco, making it a punishable offense to visit any gambling place located within certain specified limits, which designates what is known as the "Chinese quarter," applies to all alike, since white men as well as Chinese live therein, and the prohibition extends to "any person," irrespective of race or color, and is not therefore within the language of the fourteenth amendment.

Petition for Writ of *Habeas Corpus*.
Alfred Clarke, for petitioner.

Davis Louderback, for respondent.

HAWLEY, J. Petitioner was arrested for violating the provisions of section 1 of ordinance No. 2191, which, among other things, prohibits any person from visiting any gambling place within certain limits, in the city and county of San Francisco, defined as follows: "Bounded by the north side of California street, east side of Powell street, and the north side of Broadway." Authority to enact ordinances of this nature is expressly given to the municipality by the state constitution, (article 11, §§ 7, 11;) and such ordinances have been declared constitutional by the supreme court of the state, (*Ex Parte Lane*, 76 Cal. 587, 18 Pac. Rep. 677; *In re Linehan*, 72 Cal. 115, 13 Pac. Rep. 170.) If there are any provisions in this ordinance which are made misdemeanors, and punishable by the general statutes of the state, and for that reason not punishable under the ordinance, (*In re Sic*, 73 Cal. 142, 14 Pac. Rep. 405,) it will be time enough to dispose of such questions when they arise. It is sufficient to say that the charge against petitioner does not raise any such question.

There are no federal questions involved in this case. The provision in the ordinance making it a misdemeanor for any person to become a visitor to any "place for the practice of gambling" does not in any manner conflict with any of the provisions of the fourteenth amendment to the constitution of the United States. The *Laundry Cases*, upon which petitioner principally relies, are essentially different from this. There the facts shown established—

"An administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the ordinance as adopted, they are applied by the public authorities charged with their administration, and thus representing the state itself, with a mind so unequal and oppressive as to amount to a practical denial by the state of that equal protection of the laws which is secured to the petitioners, as to all other persons, by the broad and benign provisions of the fourteenth amendment to the constitution of the United States." *Yick Wo v. Hopkins*, 118 U. S. 373, 6 Sup. Ct. Rep. 1064.

Here the ordinance in its practical operation and effect applies to all alike. There is no discrimination against any class of persons on account of their race or color. The provisions of the ordinance are necessary for the protection of society, the peace and good order of the community, and are in their nature and effect of the character which belong to the police power of the state. Although the limits, as defined, are generally designated and known as the "Chinese quarter," yet the fact is that white men as well as Chinese live and own property within these limits. Moreover, any person, without regard to his residence, race, or color, found visiting any gambling place therein, is liable to arrest and punishment.

The writ is dismissed, and petitioner is remanded to the custody from whence he came.

In re AH TOY.

(Circuit Court, N. D. California. January 26, 1901.)

1. HABEAS CORPUS—RETURN—SUFFICIENCY—CITY ORDINANCES.

A return to the writ of *habeas corpus* by the chief of police of a city, stating that petitioner is held by virtue of a warrant of the police court wherein petitioner had been convicted of visiting a house of ill fame, and sentenced to imprisonment, is not demurrable for failure to state the ordinance under which he was convicted, when such ordinance was set out in the petition.

2. MUNICIPAL ORDINANCES—VALIDITY—DISORDERLY HOUSES—LAUNDRIES.

The fact that a section of a city ordinance relating to laundries has been adjudged void does not affect the validity of another section of the same ordinance which prohibits the keeping of houses of ill fame and the frequenting thereof.

Habeas Corpus.

Alfred Clarke, for petitioner.

HAWLEY, J. The return to the writ states that petitioner is held in custody by the chief of police of the city and county of San Francisco under and by virtue of a commitment regularly issued from the police court of said city and county, stating that petitioner had been duly convicted of a misdemeanor in visiting a house of ill fame, and sentenced to pay a fine, with the alternative of imprisonment. The return does not state under what particular ordinance petitioner was convicted, and petitioner therefore claims that the facts stated in the return are not sufficient to justify his imprisonment. The petition for the writ alleges that petitioner is in custody for a supposed violation of section 33 of order 1587 of the board of supervisors, and claims that he is entitled to his discharge upon the ground that said order is null and void. Upon the hearing before the commissioner, to whom this matter was referred, it was shown by petitioner that he was convicted of a violation of order 1955, "amendatory of section 33 of order 1587, prohibiting disorderly houses, houses of ill fame, and places for the practice of gambling." This amendatory order expressly provides that it shall be unlawful for any person to "become an inmate of, or a visitor to, * * * any * * * house of ill fame." It therefore affirmatively appears that the defects complained of in the return were supplied by the allegations of the petition and proofs offered by petitioner. The demurrer to the return is overruled.

The contention of petitioner's counsel, that order 1587 had been declared null and void by the supreme court of the United States in the cases of *Yick Wo v. Hopkins*, and *Woo Lee v. Hopkins*, 118 U. S. 356, 6 Sup. Ct. Rep. 1064, is utterly devoid of merit. The fact that section 68 of order 1587, relating exclusively to maintaining and carrying on laundries, has been declared invalid, in no respect impairs the validity, force, or effect of other sections of the order, relating to entirely separate, independent, and distinct subjects. The legal principles announced by the supreme court in the *Laundry Cases* have no application to a case like this. *In re Ah Kit*, ante, 793, (recently decided;) *In re Christensen*, 11 Sup. Ct. Rep. 13.

The petitioner is remanded.