

present Utah statute is substantially the same as the California statute which was adopted in that year. Counsel for appellants refer us to *Larco vs. Casanueva*, 80, vol. 561, and insist that, as we adopted the California statute, the rule there laid down should control the decision in this case. In that case the will contained the following clause: "I hereby appoint my brother, Francisco Casanueva, my executor of this my last will, with power to sell, dispose of, and convey all my said property, both real and personal, for the benefit of my said sister, without obtaining any order of any court therefor. And I hereby dispense with the necessity of his giving the bonds required by law for the faithful execution of the trust hereby created." In that case it will be seen that the power conferred was upon the person named; that he was authorized to convert the entire estate into money and reduce it to his possession. The court in that case substantially held that it was a power coupled with an interest, and that, taking it altogether, it was apparent that he intended to take the execution of his will wholly out of the possession of the probate act, and that it was unnecessary for him to apply to the court for authority to sell, or ask the court to confirm the sale after it had been made. If the will in this case should be construed the same as the will in that case, then the order of confirmation now sought to be obtained would be unnecessary, as the executors could proceed wholly independent of the Probate Court. But in the inter case of the estate of Durham, 40 Cal. 495, which arose under the former statute of California, which was identical with our earlier statute and substantially the same as our present probate act, the Court says: "When therefore, the will creates a naked power,—a power not coupled with an interest—the executors must give notice of the sale, returning accounts thereof, and unless there are special directions in the will, must conduct the sale in all respects as if made under the order of the Court."

In this case we must presume the testator made his will in view of the provisions of the statute in force at the time he wrote it. He devised his property in fee to his children, and conferred upon his executors the mere power to sell as much of his property as may be necessary to carry out the provisions of the will, and authorized them to sell at either public or private sale, in their discretion, but gave them no other discretion in the conduct of the sale, and gave no directions as to how the sale should be conducted. He did nothing indicating an intention to take the execution of his will out of the probate act. The power to sell his property is conferred upon his executors, whoever they may be, and is not conferred upon the executors in this will by name. The appointment of the executors is a separate and independent provision.

He must have made it with the understanding that whoever executed the will would be required to comply with the provisions of the Probate

Act, and that it would be under the supervision of the Probate Court. It is reasonable to conclude when he authorized the executors to sell at public or private sale, he meant the kind of private sale provided for in the statute and which required that notice should be given. If he had intended that these sales be made without notice, it is reasonable to conclude he would have so stated.

We are of the opinion that the will in this case confers a mere naked power upon the executors; that it authorizes them to determine whether sales of property shall be at public or private sale, but that, in which ever way they proceed, the sale must be conducted pursuant to the statute, and that the statutory notice not having been given of the sales in controversy, they are invalid.

The judgment of the District Court is affirmed.

We concur: Zane, C.J., Blackburn, A. J.

INDIANS IN ARIZONA.

The Pima and Maricopa Indian Reservation is located in Pinal and Maricopa counties. Today we visited Sacaton, where the Indian Agent, Mr. Crouse resides and were very kindly received. Sacaton is located on the Gila River, in about the centre of the reservation.

New buildings are being erected for schools and other purposes and the Indians are very industrious. Some, we noticed, were busy hauling wood, others were engaged as builders, carpenters, etc.

We traveled across their farms, which were well cultivated and their crops were looking splendidly. Wheat is now turning and harvesting will soon commence. About 4000 Indians reside on the reservation and we are informed that last year about one hundred thousand bushels of grain was raised, besides other products, such as vegetables, hay, etc.

A very good day school is conducted by a native teacher, Mr. Hugh Patten, a Pima Indian. The children learn rapidly, and quite a number have been sent from here to the high schools at Albuquerque, N. M., to complete their education. The school usually has enrolled one hundred and sixty names. The young girls are instructed in sewing, cooking and other domestic duties by ladies engaged for that purpose, while the boys are learning the various trades necessary to improve their condition.

They also have a church where sabbath services are held, but I fear that little has been accomplished by it. How can they become interested until they understand their true position? When we can preach unto them the true principles of the Gospel and tell them of their past history, as revealed in the Book of Mormon and corroborated so extensively by the ruined cities, and other relics of their ancestry, proving also that they are of Israel, we can secure their attention, and it appeals directly to their hearts and understandings. Let them be educated, by all means, and as they

advance socially and intellectually they will become better subjects to labor amongst.

It was quite a pleasure to visit them and notice how intelligently many of them could converse on various topics.

Singing and music were also heard in their dwellings, this being another proof of their progress.

PHOENIX.

FLORENCE, Pinal County, Arizona, April 19th, 1890.

NOTES FROM THE ORIENT.

Haiphong and Hanoi papers give details of the ransom of Messrs. Victor and Henry Roque, Baptiste Costa and their Annamite servant from the Touquin pirates. M. Briffaud (French Resident) and Father Houery, accompanied by an escort of ten French marines, left Dong-trieu with the ransom agreed on on March 7th, early in the morning, and arrived about 9 a.m. within a short distance of the brigands' encampment.

Halt was called about 200 meters from the camp, at a place where a bambo post had been erected, on which was inscribed certain words the translation of which is, "The French soldiers must stop here." Mr. Briffaud entered into communication with the brigand chief Luu-ky, and endeavored to persuade him to permit the exchange of the captives and the ransom to take place near the post where the escort was. Luu-ky, however, knowing that he was master of the situation, would not listen to this proposal. He insisted that the exchange be made near the foot of the mountain, at a spot half way between his camp and the post.

M. Briffaud had to yield. Leaving the soldiers, he and Father Houery advanced quite unprotected to meet a lieutenant and the men selected by Luu-ky, to examine the ransom, along with whom was Henry Roque. This lieutenant, whose name is given as Ning or Nen, was scrupulously minute in his examination. The ransom consisted of five chests containing 50,000 silver dollars and of 100 pieces of silk and twelve watches. The contents of some of the chests had to be counted two or three times before Ning was satisfied. He took exception to the silk, declaring that it was not fine enough. Being assured that the silk was the best that could be obtained at Haiphong at short notice, he finally after giving a good deal of trouble accepted the ransom.

The other captives, Victor Roque, Costa and the Annamite boy, were then brought forward, and, along with Henri Roque, were formally handed over to M. Briffaud. The Europeans returned to their escort and left at once for Dong-trieu, which was reached about 3:30 p.m. Luu-ky and his men made for the mountains with the ransom, and doubtless were not long in gaining the frontier.

While the pourparlers for the ransom were going on, the French Resident and the missionary who ac-