

Exhibit 187

in the case of:

**People of the Republic of Texas
and the
Sovereign Nation of the Republic of Texas**

v.

**UNITED NATIONS
(and all it's Political Subdivisions)
and
UNITED STATES
(and all it's Political Subdivisions)**

Under Pains and Penalties of perjury and the laws of the Almighty, and being sworn under a vow and oath, I attest that the attached pages are true and correct reprints of the:

Expansion West, the Civil War, and the Reconstruction Era Ch. 3, from U.S. History Online.

This attestation is made on August 18, 1998.

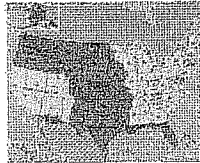
Attest: Joelynn Savage

D. A. West
Witness to source and above signature

Maria Ann West
Witness to above signatures

CHAPTER III | EXPANSION WEST, THE CIVIL WAR, AND THE RECONSTRUCTION ERA

The Louisiana Purchase of 1803 acquired land for the United States as far west as the Rocky Mountains. President Thomas Jefferson, by buying this land from France, doubled the size of the new nation. Yet large areas of its land mass were occupied by other nations. To the southwest was Mexico, which had won its independence in a revolutionary war against Spain in 1821 -- a large country that included Texas and what is now New Mexico, Utah, Nevada, Arizona, California and part of Colorado. As recently as 1960, the Supreme Court had to settle the boundaries of Texas as well as the right of all the states on the Gulf of Mexico to oil and minerals underlying the continental shelf. *United States v. Louisiana, Texas, Florida, Mississippi, Alabama and California*, 363 U.S. 1 (1960).



The territories of the US during
its expansion in the 19th Century

The opinion of the court was long and complicated with complex issues resting on history. In *Pollard's Lessee. v. Hagan*, 3 Howard 212 (1802), the court announced a rule it proposed to apply to the admissions of states other than the original thirteen colonies. By virtue of their sovereignty through revolution, these original thirteen states owned the lands beneath their navigable waters, but submerged land beneath coastal sea was left in an ambiguous area. In *United States v. Louisiana et al*, the Supreme Court tried to provide equal treatment, but the issues had gotten quite complicated. Florida, for example, claimed three leagues seaward as its boundary, but this claim was made after its secession during the Civil War. Texas was the most difficult problem for the court. It was admitted to the Union in 1845 as the only independent nation ever admitted.

In March, 1837 the United States recognized the Republic of Texas having declared its independence from Mexico a year earlier. The Texas Congress passed a measure defining its boundaries as extending three leagues seaward from the coastline. Evidently, part of what is now Texas had once been included in the land ceded by France to the United States by the Treaty of Paris in 1803 -- the Louisiana Purchase. France had acquired the land from Spain which in turn entered into a treaty with the United States in 1819. Quite a few people involved in the negotiations then believed that the Louisiana Territory extended west from the Sabine River that Texas claimed as its eastern boundary. These people decried the Treaty of 1819 as a breach of faith by the United States in violation of the Treaty of Paris in 1803. Unsurprisingly, the Joint Resolution of Congress for the Annexation of Texas in 1845 provided for a survey to settle boundary questions. The Supreme Court did not mention an additional complication. Should Texas

be admitted as a slave or free state in 1845, and supporters of slavery in Congress prevailed.

In 1854, two territories were opened to slavery by the Kansas-Nebraska Act of that year. Senator Stephen Douglas, a Democrat from Illinois, was Chairman of the Senate Committee on Territories. From this position, he had the power and influence to push this measure through both the Senate and the House. It was Senator Douglas' position that popular sovereignty should allow Kansas and Nebraska voters to decide whether either state would be slave or free. The Act itself read in part that the territory "when admitted as a state or states....shall be admitted into the Union, with or without slavery, as their constitutions may prescribe."

This language appeared in the Compromise of 1850 in which both Utah and New Mexico had been admitted to the Union. Lincoln and all the other antislavery spokesmen were infuriated by the Kansas-Nebraska Act. In 1854, Lincoln held no public office in Illinois, but he secretly thought of the Senate with encouragement from his many supporters. However, Lincoln had a problem. Were he to run successfully for the Illinois legislature, he could not vote for himself when the State Legislature elected a Senator in 1855. Unfortunately, Lincoln was compelled to ask his supporters in the State Legislature to vote for Lyman Trumbull, a Democrat, but one violently opposed to slavery.

During the period between 1854 and 1855, Lincoln followed Senator Douglas around Illinois as a sort of truth in campaigning committee of one. Lincoln also saw the Whig Party of which he was a member falling apart. Some prominent Whigs joined the Know Nothing Party. Its members were hostile to foreigners, suspicious of the Catholic Church, and opposed to the sale of alcoholic beverages. The Democrats of this period were proslavery, having supported the Compromise of 1850. Finally, a fusion party was formed with a platform calling for restoration of the Missouri Compromise, upheld the Fugitive Slave Act of 1851, and pledged noninterference with slavery in states where it already existed. However, the platform also stated that Congress had the power and duty to exclude slavery from the territories. So, on May 29, 1856 Lincoln addressed the first convention of the new Republican Party of Illinois. Lincoln was nominated, but did not get the position as vice president with John Fremont as the Republican's candidate for president. This combination -- Fremont and Dayton -- lost to James Buchanan, a Democrat, in the 1856 elections.

The turmoil surrounding the slavery issue spilled over into the 1856 presidential nominating convention of the Republicans. John Fremont was nominated for president, and Lincoln almost made it to the vice presidential nomination but finally lost. He was a strong party supporter of the Republicans and made many campaign speeches, but in November, 1856 Fremont lost to James Buchanan.

A year later, the Supreme Court made its most outrageous decision in all its history, *Scott v. Sandford* 60 U.S. 393 (1857). Also known as the Dred Scott Case, seven justices of the court, five of them southerners, held that black Americans were property and had no rights of any kind. Stephen Douglas defended this decision, but Lincoln was slow to react. Instead, he began planning his campaign for election to the Senate by the Illinois State Legislature in 1858. Alarmed by the violence in Kansas, President Buchanan demanded the speedy admission of Kansas as a state. The Constitution for Kansas was

submitted for approval in Washington. It was a proslavery document, and Buchanan, a Democrat, recommended approval in sending it to Congress. Abraham Lincoln could not run for direct election to the Senate in 1858, so he worked carefully in Illinois. However, the Democrats came in with the majority needed to control the choice of Senator. Lincoln's bitter enemy, Stephen Douglas, was reelected to the Senate by the State Legislature. Lincoln's fortunes began to improve in 1859, and he made political speeches in all the important states of the East, including New York, Ohio, New Hampshire, and Connecticut. In terms of westward expansion of the population, Lincoln sold himself as a champion of free soil and opposed to any further slave states in the new territories. California had been admitted to the Union in 1849 as a free state. The gold rush of 1848 had encouraged permanent settlers to migrate to the new state and make their fortunes mining gold or even better, selling supplies to the miners.

Before California was admitted, President Polk had ordered his troops to position themselves on what was clearly Mexican soil at the time in order to advance toward the then-in 1845-California whose sovereign was Mexico. Texas had been admitted to the Union in 1845, but its boundaries were not exact at all. American lives were lost in a skirmish with Mexican forces, and the impatient President Polk asked his Cabinet to authorize a declaration of war against Mexico. He mentioned that the dispatch of American troops to the Rio Grande as necessary to the defense of the United States. Actually, the reverse was true. President Polk had incited war by sending American forces into what was clearly disputed territory, historically Mexican. In any case, thousands of volunteers flocked to the colors. Quite a few more thoughtful Americans felt differently, noting that seizure of this Mexican territory would extend the area where slavery would flourish. In the summer of 1856, Henry David Thoreau refused to pay his poll tax and denounced the Mexican War. He was jailed for contempt, but some friends came to his relief. Two years later, he gave his speech in a lecture "Resistance to Civil Government." It was later published as an essay, Civil Disobedience.

A Baptist minister, the Reverend Francis Wayland, president of Brown University spoke in the college chapel. "Only wars of self-defense were just," he said. "An individual was morally obligated to resist an unjust war and lend no money to the government to support it." Over a hundred and forty years later, many students did just that, including President Bill Clinton during the War in Vietnam.

Notwithstanding some opposition to war, fighting broke out on two fronts, one in California and New Mexico with troops led by General Kearney and another in Mexico led by General Taylor. The latter's forces moved south through Mexico all the way to Mexico City plagued by illness and desertions on the part of soldiers who had not been paid. Thousands of casualties on both sides finally led to Mexico's surrender and the signing of the Treaty of Guadalupe Hidalgo in 1848. The boundary of Texas was set at the Rio Grande and both New Mexico and California were ceded to the United States. It got by conquest what belonged to Mexico, a sorry episode in American history and Mexico was paid a paltry \$15 million for the land it gave up.

This foreign adventurism all occurred at a time when slavery was very much of an issue. The antebellum South was a slave society, not merely a society in which some people were slaves. From the early years of European settlement, Southern agriculture was geared toward production of staple crops. These crops increasingly featured tobacco

and cotton, both labor intensive. Significantly, however, outside observers saw the South as backward. Landscape architect Frederick Law Olmstead spent fourteen months preparing articles for the, described the South as a degraded land of poverty, illiteracy, ignorance, inefficiency, and lethargy in which slavery impeded economic development. New York Senator William Seward concurred. "It was necessary that I should travel to Virginia to have any idea of a slave state," he stated. "An exhausted soil, old and decaying towns, wretchedly neglected roads, and, in every respect, an absence of enterprise and improvement, distinguish the region. Such as been the effect of slavery." This comment appears in Eric Foner's *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War*. (Oxford University Press, 1970).

Throughout the North, individuals spoke out against slavery. William Lloyd Garrison (1805-79) was one of them and a leader of the Abolitionist movement. In 1829, when Andrew Jackson was president, Garrison gave his first address against slavery in Massachusetts. In the same year, he was an editor of a newspaper in Baltimore. One of his articles caused his arrest for libel, and Garrison served seven weeks of his sentence to jail. Two years later, he founded *The Liberator*, perhaps the best known antislavery newspapers of its time. Garrison also founded the Anti-Slavery Society and served as its president from 1833 to 1865. In Boston, he publicly burned a copy of the Constitution, saying "So perish all compromises with tyranny."

The government of the United States supported slavery, or more accurately did nothing to end it except to condemn the slave trade. No president ever challenged the Fugitive Slave Act passed by Congress in 1850. At least in the South, the economic health of the entire region relied on slavery. By 1860, a million tons of cotton were produced in the South each year. From 1790 the number of slaves had increased from 500,000 to over four million by 1860. During this period, slave revolts occurred, always unsuccessfully. The slaves had no power. In 1811, a slave revolt occurred near New Orleans. It ended with some sixty-five slaves killed by the U.S. Army, and sixteen were tried and shot by firing squad. In 1822, the conspiracy amongst slaves to burn Charleston to the ground ended when thirty-five slaves were hanged. In 1831, Nat Turner's Rebellion in Virginia panicked the South spurring the plantation owners to bolster their security.

Escape was more realistic than armed insurrection. In the 1850s, about 1,000 slaves escaped from the owners each year and got to the North via the Underground Railroad, an organization of people dedicated to the idea of freedom. Slavery was in fact an institution that dehumanized its victims and possibly some of its practitioners. At least one writer states that music, art and religion were the only way for slaves to hold on to their humanity. South had better prepare yourselves for a settlement of this question... You may dispose of me very easily.... I am very nearly disposed of now, but this question is still to be settled -- this Negro question, I mean; the end of that is not in sight." In his last written statement, John Brown, before he was hanged, wrote: "I, John Brown, am quite certain that the crimes of this guilty land will never be purged away but with blood." Ralph Waldo Emerson said of Brown's execution, "He will make the gallows holy as the cross."

While the government did nothing by itself to end slavery, President Buchanan did have time to swindle the Indians again. In 1858, his administration found time to negotiate a treaty with the Sioux Indians. By its terms, ratified by the Senate as a solemn treaty in 1859, the Sioux of Yankton, North Dakota ceded millions of acres of their

tribal land and ancestral hunting grounds to the United States. In return, the Sioux reserved for themselves and their descendants about 430,000 acres. Instead of cash, the government agreed to supply food, clothing, farm implements, livestock, and other necessities to convert the area from a hunting ground to an agricultural society. Within two years after the treaty was signed, the government's Indian agent, a man named Burleigh, had appropriated to his own use most of the supplies sent for use by the Indians. When the Sioux demanded an accounting, Burleigh refused, and it took the Army at Fort Randall to save him and prevent the building from being torched. This story came from the autobiography of Russell Means, *Where White Men Fear to Tread* published in 1995 by the St. Martin's Press. Today, America's tribal schools are crumbling because of budget cuts, inefficiency and neglect by the government's Bureau of Indian Affairs (BIA). In their treaties with the Sioux and other Indian tribes, the United States had promised to educate American Indian children. The Bureau of Indian Affairs is required to finance tribal schools at the same per student average for their state. This promise has not been kept for years, and Congress doesn't even appropriate enough funds to keep existing schools in reasonable condition or replace those falling apart for lack of maintenance. The BIA has an unfulfilled responsibility of about \$675 million in repair costs alone for the nation's 187 schools. There are a growing number of Indian children. By 1996 there was increase to about 50,000 compared to 47,000 in 1993.

In 1860, over 135 years ago, Abraham Lincoln ran for president as a Republican. He won with about 1.8 million popular votes, but not a single one of them from any of the ten Southern states. In fact, Lincoln's share of the total popular vote was only forty percent, less than Bill Clinton got in 1992 by two percent. Formidable problems faced Lincoln even before his inauguration in March, 1861. Within a month, every Southern state had taken steps in the direction of secession from the Union. Even before the electoral votes were counted, the ten states of the South -- eleven counting Texas -- had drawn up a constitution for the new Confederate States of America. On March 4, 1861 Lincoln, having toned down a somewhat warlike inaugural address, delivered it, and on the next day, the South decided that war was inevitable. Lincoln's advisers told him the Fort Sumter had to be resupplied and that a surrender of that fort would be a political disaster. An attempt to resupply Fort Sumter by sea was made, but South Carolina's governor had been told that only food and other peaceful supplies were to be delivered. On April 12, 1861, while ships were ready to offload supplies at Fort Sumter, Confederate forces shelled this fort, and within forty-eight hours, its commander had to surrender. War had begun.

President Lincoln called for a militia of 75,000 soldiers to defend the Union and called a special session of Congress to meet on July 4, 1861. Some border Southern states refused to supply troops, and North Carolina, Virginia, Arkansas, and Tennessee promptly seceded, joining the Confederacy with its capital in Richmond, Virginia. Throughout the war, Lincoln described the conflict as an insurrection or rebellion. To describe it as a war between the states would acknowledge that the Union was not perpetual and that secession was constitutional. Additionally, Lincoln suspended the writ of habeas corpus, an act immediately challenged in court. Chief Justice Roger Taney questioned the president's action in, *Ex parte Merryman*, F. Cas. 9487 (1861). John Merryman was a pro-Confederate Maryland political leader, who was arrested for participating in the destruction of a key bridge into Washington. Merryman petitioned Chief Justice Taney for a writ of habeas corpus. Taney issued the writ, but the military

commander to whom it was addressed refused to produce Merryman in view of Lincoln's suspension of the writ. Taney later declared Merryman was entitled to his freedom, since he held that only Congress could suspend the writ of habeas corpus. Lincoln prevailed in his dispute with Taney. The Constitution did not expressly state who might order suspension, but in an emergency, action had to be taken to protect the public safety. Furthermore, Lincoln had taken an oath of office to faithfully execute the laws of the United States.

In April, 1861 Lincoln ordered a naval blockade of Confederate ports. Its legality was challenged in the *Prize Cases* 67 U. S. 635 (1863). In a 5-4 decision, the Supreme Court held the blockade was legal. The majority argued that if a state of war recognized by international law existed, captures of Confederate ships were legitimate. If such a war did not exist when the executive imposed the blockade, the captures were illegal. According to Justice Grier's majority opinion, a state of war existed in April, 1861 justifying resort to a blockade. Although the conflict had begun as an insurrection against the federal government and without a formal declaration of war, it was nevertheless a war, a civil war. Justice Grier also stated that it was for the president as commander-in-chief to decide whether in suppressing an insurrection it was justifiable to treat the opponents as belligerents.

Those readers with an interest in the battles of the Civil War that ended in 1865 with the surrender of Confederate forces at Appomatox Courthouse may wish to read *In the Hands of Providence: Joshua L. Chamberlain & the American Civil War*. It was published in 1995 by The University of North Carolina Press and written by Alice Rains Trulock. Chamberlain established a remarkable career during the Civil War. An academic and theologian by training, this young professor at Bowdoin College agreed to accept a commission as a lieutenant colonel in the Twentieth Maine Volunteer Regiment. He fought at Antietam and Frederickson and then led his regiment to glory at Gettysburg, where he ordered the brilliant charge that saved Little Round Top on the afternoon of July 2, 1863 and avoided a Union catastrophe. Subsequently promoted to general, he was given the honor of receiving the Confederate surrender at Appomatox. There Chamberlain endeared himself to succeeding generations with his unforgettable salute to Robert E. Lee. He later served four terms as governor of Maine and then became president of Bowdoin College. Chamberlain died in 1914.

Reconstruction of the Union after the war presented some daunting problems for Abraham Lincoln. In 1863, he issued an executive order that dealt with the postwar status of the slaves and requiring the states seceding from the Union in 1861 to adopt constitutions abolishing slavery as a condition of re-admission to the Union. Lincoln was reelected in 1864 with Andrew Johnson as his vice president, but he was assassinated by John Wilkes Booth on April 14, 1865 in the Ford Theater. Booth and his co-conspirators had put together a plan to murder Lincoln, the vice president and the Secretary of State, William Seward. Booth felt that success of the triple assassinations would so demoralize the country that the South might still gain its independence. However, only Lincoln died that night, although Seward barely survived an attack on him at home. Booth was captured in Virginia, and his co-conspirators were all arrested and tried.

Despite action anticipating the end of the Civil War, the Supreme Court had been so politicized by the conflict, it struck down federal and state requirements that individuals

swear loyalty to the Union as a condition of practicing their professions.

By contemporary standards, the court acted properly, but here the holding allowed former secessionists to regain political power in the South. These early Reconstruction decisions combined with President Johnson's veto of civil rights legislation as well as his pardons of and grants of amnesty to Confederates were obstacles to the establishment of the Freedmen's Bureau Act, the Civil Rights Act of 1866, and the Military Reconstruction Acts of 1867 and 1868. Congress approved and the states ratified three amendments to the Constitution, the 13th, 14th, and 15th Amendments.

The 13th Amendment:

Section 1. Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

The 14th Amendment:

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State in which they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

Section 2. Text omitted

Section 3. Text omitted

Section 4. Text omitted

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The 15th Amendment:

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Although the court was dominated by Republicans -- Lincoln had appointed Salmon Chase to replace Roger Taney as Chief Justice -- it split over questions involving executive power. Nor was the court gender-conscious. In 1873, it denied a challenge by Myra Bradwell alleging denial of her admission to the Illinois bar association was a violation of the Privileges and Immunities Clause of the newly-ratified Fourteenth Amendment. See *Bradwell v. Illinois* 83 U.S. 130 (1873).

Both newspapers and magazines of the Reconstruction period were filled with articles refighting the Civil War. Frederick Douglass wrote one in Volume 18 of the *Atlantic Monthly* of 1866 noting that the Second Session of the Thirty-ninth Congress might "properly be made the occasion of a few earnest words on the much-worn topic of

reconstruction." What follows was retrieved via the Internet from the University of Virginia Electronic Text Center. Douglass, a distinguished black advocate, had urged Lincoln to draft blacks in 1862. The Confiscation Act of 1862 specifically authorized enlistment of black volunteers, but Lincoln was reluctant to follow so revolutionary a policy. Douglas wrote in the fiery language used by him in speeches.

Seldom has any legislative body been the subject of a solicitude more intense, or of aspirations more sincere and ardent. There are the best of reasons for this profound interest. Questions of vast moment, left undecided by the last session of Congress, must be manfully grappled with by this. No political skirmishing will avail. The occasion demands statesmanship.

Whether the tremendous war so heroically and so victoriously ended shall pass into history a miserable failure, barren of permanent results, -- a scandalous and shocking waste of treasure, -- a strife for empire, as Earl Russell characterized it, of no value to liberty or civilization, -- an attempt to re-establish a Union by force, which must be the merest mockery of a Union, -- an effort to bring under Federal authority which no loyal man from the North may safely enter, and to bring men into the national councils who deliberate with daggers and vote with revolvers, and who do not even conceal their deadly hate of the country that conquered them, or whether, on the other hand, we shall, as the rightful reward of victory over treason, have a solid nation, entirely delivered from all contradictions and social antagonisms, based on loyalty, liberty, and equality, must be determined one way or the other by the present session of Congress. The last session really did nothing which can be considered final as to these questions.

Frederick Douglass, a Northerner exercised the power of moral authority. He had been influential in getting blacks to enlist in the volunteer army of a country that was half slave and half free. By the end of the Civil War over 100,000 of them were serving. On one occasion while the Civil War was still being fought, Lincoln consulted Douglass about a letter he planned to send. In it, Lincoln had some thoughts on a peace that did not include the abolition of slavery. Douglass exploded with anger, saying: "It would be given a broader meaning than you intend to convey. It would be taken as a complete surrender of your antislavery policy, and do you serious damage." Lincoln never sent the letter.

Violence from the defeated South began immediately after the war ended. The Ku Klux Klan was organized with financial support from most whites in the deep South. Simply put, the South was entirely anti-black and fought tooth and nail to resist even the minimum efforts to both free the slaves and improve their environment. Ku Klux Klan violence, including lynching and whipping would continue into the 1960s and the civil rights movement. However, the Reconstruction era really ended with the electoral vote compromise of 1877. At the beginning of the year, the presidential election was over, but Democratic candidate, Samuel Tilden had 184 electoral votes and needed only one more to win. Three states with 19 electoral votes had not yet been counted. Rutherford Hayes might win if he got all 19 votes. So a deal was made, and for political reasons, all 19 votes were given to Hayes who became president in 1877. As C. Vann Woodward puts it in his history of the 1877 *Compromise, Reunion and Reaction*: "The Compromise of 1877 did not restore the old order in the South. It did assure the dominant whites political autonomy and non-intervention in matters of race policy and promised them a share in the blessings of the new economic order. In return, the South became, in effect, a satellite of the dominant region...."

The first fruits of this Faustian bargain were not long in appearing. Congress repealed the Southern Homestead Act. This measure reserved huge areas of land in five states of

the South for farmers who agreed to work the land. The repeal of this law allowed absentee speculators and lumbermen to move in and buy up much of this land at bargain basement prices; most of it was sold at a huge profit. The comparison with comparable conduct of the Republicans elected to Congress in 1994 seems no different from that in 1877. The new Republicans with their control of both the House and Senate seemed determined to set the clock back to the time when class-based war, not all of it non-violent, occurred after the Reconstruction era.

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