to change rates fixed in contracts made by municipalities acting under clear legislative sanction; the court finds the legislature thus far has not given the commission any such power and so a decision of that point has not been necessary. Notwithstanding the numerous dissents on these cases it seems reasonably sure that the court would decide in favor of such power in the legislature if the legislature were to attempt to exercise it, and so it is believed would the Federal courts and most of the state courts hold. See, for example, *Public Utilities Com.* v. *Rhode Island Co.* (R. I., June 30, 1920), 110 Atl. 654, upholding the paramount authority of the state to regulate rates through the agency of a commission. The opinion, however, quotes from *Milwaukee E. R. and L. Co.* v. *Railroad Com.*, 238 U. S. 180, a paragraph recognizing the right to make contracts which shall prevent the state during a given period from exercising this power over rates, though such renunciation of a sovereign right must be so clearly and unequivocally evidenced as to admit of no doubt. If it be in the full sense a sovereign power it is difficult to see how it can be surrendered, no matter how clear and unequivocal the language.

THE RULE IN SHELLEY'S CASE—FURTHER QUALIFYING WORDS.—The deed in question conveyed certain premises to the plaintiff "for life, remainder in *fee simple* to the heirs begotten *of the body* * * *." The plaintiff brought suit to quiet title against her son as defendant on the theory that she was entitled to an estate in fee tail by operation of the Rule in Shelley's Case, and that this, in turn, was converted into a fee simple by birth of issue. Notwithstanding a statute which provided that "the court shall carry into effect the expressed intent of the parties," it was *held,* that the Rule in Shelley's Case is still in force in Nebraska; but, that the plaintiff was entitled to a life estate only, since the words, "heirs of the body", were not used in their technical sense, the grantor having also provided that such heirs should take a fee simple. *Yates* v. *Yates* (Neb., 1920), 178 N. W. 262.

The decision is one of many examples of the tenacious grip of this obsolete doctrine of the common law upon our present day jurisprudence. See, *Doyle* v. *Andis,* 127 Iowa 36; 3 MICH. L. REV. 393. Nebraska still clings to the rule which has now been abandoned by most of the states of this country. *Wilson* v. *Terry,* 130 Mich. 73; *Richardson* v. *Wheatland,* 7 Met. 169. It is curious to note that the court, in the principal case, attempts to justify the operation of the Rule in Shelley's Case by its giving effect to the general intent over and against the particular intent. *Yates* v. *Yates, supra,* at page 263; *Fraser* v. *Chene, et al,* 2 Mich. 81, 91. The theory of general and particular intent has now been exploded. GRAY, THE RULE AGAINST PERPETUITIES, §§ 881-2; *Doe* v. *Gallini,* 5 B. & Ad. 621, 640. However, the court was undoubtedly correct in its decision that the technical force of the words, "of the body", was destroyed by the further direction that the estate in remainder was to be a fee simple. *Ault* v. *Hillyard,* 138 Iowa 239. It is worthy of note that the court, in the principal case, might have arrived at the same decision by construing the words of the instrument with reference to the intent of the

grantor without determining the question, whether or not the Rule in Shelley's Case is in force in Nebraska.

TRADEMARKS—REGISTRATION.—Petitioner had applied for registration of a trademark containing a merely descriptive phrase, but consisting of non-descriptive and otherwise registerable matter in conjunction therewith. The Commissioner refused to register the mark unless the descriptive phrases were first erased therefrom. *Held,* the ruling was error and the mark should have been registered as filed. *Estate of P. D. Beckwith, Inc.* v. *The Commissioner of Patents* (1920), 40 Sup. Ct. Rep. 414.

The statute provides that no mark consisting "merely" of descriptive words may be registered. Originally the practice of the Patent Office had been to register marks which were otherwise proper, despite the fact that they contained some descriptive words. In *Johnson* v. *Brandau,* 32 App. D. C. 348, the Commissioner had held that "registration of a trademark is permitted where the controlling and distinguishing feature of the mark is an arbitrary symbol, although such symbol may be accompanied by accessories which in themselves are not registerable." The appellate court, however, held the mark not registerable until the applicant should disclaim *and* omit the words objected to. In *Nairn Linoleum Works* v. *Ringwalt Linoleum Works,* 46 App. D. C. 64, application had been made for registration of a mark consisting of a registerable symbol accompanied by the descriptive words, "Ringwalt's Linoleum." The applicant, on requirement by the Commissioner, expressly disclaimed the descriptive words. The appellate court held that such disclaimer was not sufficient; that it would lie hidden in the vaults of the Office, while the mark would go out to the public as though the words and the symbol were both protected; that the objectionable words must be not merely disclaimed but must be omitted from the mark. The principal case rejects this latter proposition and holds that only marks consisting *merely* of descriptive words can be refused registration. It restores the practice of registering otherwise proper marks even though they contain unregisterable parts, at least, if the unregisterable parts are disclaimed by the applicant. There is basis in the opinion, however, for further decisions to limit this practice to cases where the omission of the unregisterable parts would seriously affect the basic character of the whole mark.

SPECIFIC PERFORMANCE—RIGHT OF A QUASI ADOPTED CHILD TO SUE FOR.—When the plaintiff was at the age of six, his guardian and foster parents entered into an oral contract whereby they agreed that they would legally adopt the plaintiff and make him "heir to their property as a son of their own blood." However, adoption papers were never taken out. The plaintiff lived with his foster parents for twenty-four years when his foster father died. The heirs at law of the foster parents claim the estate. The plaintiff sues for specific performance of the contract. *Held,* that the plaintiff was entitled to specific performance, and that part performance would enable equity to take the contract out of the Statute of Frauds. *Evans* v. *Kelly, et al,* (Neb., 1920), 178 N. W. 630.