

Question 21 Treaties are the Supreme Law of the Land

The ruling of the below case should set everyone down, but the Informer and I have been saying, and continue to say this is the condition in this country. Also, contained in the Blackstone quote, it is mentioned rights of the British in their declaration of liberties, not so, read Declaration of Rights 1689, third section, it is made clear the rights of the corporation and the grantors take precedent. "Office Found", depends on the context, if talking about the king it refers to an heir of successor and removing holding from aliens, if talking about a sub corporations, the corporations are protecting their grants to keep the grants out of the hands of an alien friend or enemy. In either case once office is found the land or possession reverts back to the corporation, state or king, the sovereign. Gee, I wonder if this is why we were all declared to be enemy aliens in 1933? I am also sending you the land mark case: FAIRFAX'S DEVISEE v. HUNTER'S LESSEE, 11 U.S. 603 (1812) It absolutely defines a Treaty is the Supreme law of the land and how the Treaties of 1783 and 1814 protected the kings holdings, period. In the case below you will see what the king has been doing is recapturing corporate holdings that came about after the two Treaties were passed, because the holdings were in the hands of aliens.

"Military conquerors of foreign states in time of war may doubtless displace the courts of the conquered country, and may establish civil tribunals in their place for administering justice; and in such cases it is unquestionably true that the jurisdiction of suits of every description is transferred to the new tribunals. *United States v. Rice*, 4 Wheat. 246; *Cross v. Harrison*, 16 How. 164.... Towns, provinces, and territories, says Halleck, which are retaken from the conqueror during the war, or which are restored to their former sovereign by the treaty of peace, are entitled to the right of postliminy; and the original sovereign owner, on recovering his dominion over them, whether by force of arms or by treaty, is bound to restore them to their former state. In other words, he acquires no new right over them, either by the act of recapture or of restoration. . . . He rules not by any newly acquired title which relates back to any former period, but by his antecedent title, which, in contemplation of law, has never been divested." Halleck, *Int. Law*, 871. *DOW v. JOHNSON*, 100 U.S. 158 (1879)

"It is clear, therefore, that this doctrine has no sufficient sanction in authority, and it will be found equally unsupported by principle or analogy. [152 U.S. 505, 509] 'The general rule is positively against it, for the books, old and new, uniformly represent the king as a competent grantor in all cases in which an individual may grant, and any person in esse, and not civiliter mortuus, as a competent grantee. Females covert, infants, aliens, persons attainted of treason or felony, clerks, convicts, and many others, are expressly enumerated as competent grantees. Perkins, *Grant*, 47, 48, 51, etc.; Comy. Dig. 'Grant,' B 1. It behooves those, therefore, who would except aliens, when the immediate object of the king's grant, to maintain the exception." *MANUEL v. WULFF*, 152 U.S. 505 (1894)

"Whether the plaintiffs in error were entitled to be allowed, in the assessment of damages, for the value of prospective gold mines in tract 39, designated on the map of the park, was a question mooted at the trial, and the action of the court in striking out the testimony offered to show such value, and in holding that, if there are any deposits of gold in this ground, they are the property of the United States, is complained of in the 7th, 8th, and 9th assignments of errors. The history of the tract in question was gone into at great length, and various patents of the province and state of Maryland were put in evidence. The court below held that, as by the grant of Charles I to Lord Baltimore, 'all veins, mines, and quarries, as well opened as hidden, already found, or that shall be found, within the regions, islands, or limits aforesaid, of gold, silver, gems, and precious stones,' passed to the grantee, he yielding unto the king, his heirs and successors, 'the one-fifth part of all gold and silver ore which shall happen, from time to time, to be found;' and as the confiscation of the proprietary's title in 1780 vested the same in the state of [147 U.S. 282, 307] Maryland; and as also the royalty of one fifth part of the gold and silver reserved to the king had also become, by the Revolution, vested in the state, -consequently the United States succeeded to the state's title by the act of cession of 1791." *SHOEMAKER v. U S*, 147 U.S. 282 (1893)

"The necessity of an inquest of office was considered by this court at an early day in two cases. In *Smith v. Maryland*, 6 Cranch, 286, it was held that by the confiscation act of Maryland, passed in 1780, before the

adoption of the constitution, interests in land were completely divested by operation of law, without office found. The validity of the act was apparently not considered. [165 U.S. 413, 432] The case of *Fairfax's Devisee v. Hunter's Lessee*, 7 Cranch, 603, involved the title to a large tract of land in Virginia, granted to Lord Fairfax. The lands were devised by will to Denny Fairfax, a British subject, who never became a citizen of the United States, but always resided in England, and was an alien enemy. In 1789 the governor of the commonwealth of Virginia granted the lands by patent to Hunter, a citizen of Virginia, who entered into possession prior to the institution of the action. It was the opinion of the court that the title acquired by an alien by purchase is not divested until office found, although it was contended that the common law as to inquests of office had been dispensed with by statute, so as to make the grant to Hunter complete and perfect. As to this point, Mr. Justice Story observed (page 622): 'We will not say that it was not competent for the legislature (supposing no treaty in the way), by a special act, to have vested the land in the commonwealth without an inquest of office for the cause of alienage. But such an effect ought not, upon principles of public policy, to be presumed upon light ground. That an inquest of office should be made in cases of alienage is a useful and important restraint upon public proceedings. ... It prevents individuals from being harassed by numerous suits introduced by litigious grantees. It enables the owner to contest the question of alienage directly by a traverse of the office. It affords an opportunity for the public to know the nature, the value, and the extent of its acquisitions, pro defectu hoeredis. And, above all, it operates as a salutary suppression of that corrupt influence which the avarice of speculation might otherwise urge upon the legislature. The common law, therefore, ought not to be deemed to be repealed, unless the language of a statute be clear and explicit for this purpose.' It was further held that during the war the lands in controversy were never, by any public law, vested in the commonwealth. It was also held that the treaty of 1794 with Great Britain completely protected and confirmed the title of Denny Fairfax. Mr. Justice Johnson, dissenting, was of opinion that the interest acquired by Denny Fairfax under the devise was a mere *scintilla juris*, and that [165 U.S. 413, 433] *scintilla* was extinguished by the grant of the state vesting the tract in Hunter; that it was competent for the state to assert its rights over an alien's property by other means than by an inquest of office; that in Great Britain, in the case of treason, an inquest of office had been expressly dispensed with by the statute of 33 Hen. VIII. c. 30; and that he saw no reason why it was not competent for the legislature of Virginia to do the same." *ATLANTIC & P R CO v. MINGUS*, 165 U.S. 413 (1897)

"Substantial evidence that British Corporations established an office in the United States under a resident agent, that the office collected dividends from vast holdings of American securities and did countless other tasks essential to the maintenance of a large investment portfolio, constituted sufficient basis for Tax Court's finding that corporations maintained an "office or place of business" in the United States and were taxable as "resident foreign corporations" *C.I.R. v. Scottish American Inv. Co.*, U.S., 65 S.Ct. 169, 172, 323 U.S.

119, 89 L.Ed. 113. Words and Phrases

"Office Found: "A finding of fact by inquest of office or other proceeding equivalent thereto that a certain individual is an alien.

At common law, until office found, an alien is competent to hold land against third persons, and no one has a right to complain in a collateral proceeding, if the sovereign does not enforce its prerogative." *Phillips v Moore*, 100 US 208, 25 L Ed 603. *Ballentine's Law Dictionary*, third Ed.

"Office Found: in English law. When an inquisition is made to the king's use of anything, by virtue of office of him who inquires, and the inquisition is found, it is said to be office found." See *Phillips v Moor*, 100 U.S. 484, 25 L. Ed. 628. *Bouvier's Law Dictionary*, 1914 Ed.

332. b. Inquest of office, etc. Such is that of inquisition or inquest of office: which is an inquiry made by the king's officer, his sheriff, coroner or escheator, *virtute officii* (by virtue of their office), or by writ to them sent for that purpose, or by commissioners specially appointed, concerning any matter that entitles the king to the possession of lands or tenements, goods or chattels. This is done by a jury of no determinate number; being either twelve, or less, or more. As, to inquire, whether the king's tenant for life died seised, whereby the reversion accrues to the king; whether A, who held immediately of the crown, died without heirs; be attainted of treason, whereby his estate is forfeited to the crown: whether C, who has purchased lands, be an alien; which is another

cause of forfeiture: whether D be an idiot a nativitate (from his birth); and therefore, together with his lands, appertains to the custody of the king: and other questions of like import, concerning both the circumstances of the tenant and the value or identity of the lands. These inquests of office were more frequently in practice than at present, during the continuance of the military tenures amongst us: when, upon the death of every one of the king's tenants' an inquest of office was held, called an inquisitio post mortem (an inquest after death), to inquire of what lands he died seised, who was his heir, and of what age, in order to entitle the king to his marriage, wardship, relief, primer seisin, or other advantages, as the circumstances of the case might turn out. To superintend and regulate these inquiries the court of wards and liveries was instituted by statute 32 Henry VIII, c. 46 (Court of Wards, 1540), which was abolished at the restoration of the King Charles the Second, together with the oppressive tenures upon which it was founded.

With regard to other matters, the inquests of office still remain in force, and are taken upon proper occasions; being extended not only to lands, but also to goods and chattels personal, as in the case of wreck, treasure-trove and the like; and especially as to forfeitures for offenses. For every jury which tries a man for treason or felony, every coroner's inquest that sits upon a *felo de se*, or one killed by chance-medley, is, not only with regard to chattels, but also as to real interest, in all respects an inquest of office; and if they find the treason or felony, or even the flight of the party accused (though innocent) the king is thereupon, by virtue of this office found, entitled to have his forfeitures; and also, in the case of chance-medley, he or his grantees are entitled to such things by way of deodand as have moved to the death of the party.

These inquests of office were devised by law, as an authentic means to give the king his right by solemn matter of record; without which he in general can neither take nor part from anything. For it is a part of the liberties of England, and greatly for the safety of the subject, that the king may not enter upon or seize any man's possessions upon bare surmises without the intervention of a jury. It is, however, particularly enacted by the statute 33 Henry VIII, c. 20 (Reason, 1541), that, in case of attainder for high treason, the king shall have the forfeiture instantly, without any inquisition of office. And, as the king hath no title at all to any property of this sort before office found, therefore by the statute 18 Henry VI, c. 6 (Crown Grants, 1439), it was enacted that all letters patent or grants of lands and tenements before office found, or returned into the exchequer, shall be void. And, by the bill of rights at the revolution, 1 W.&M., st. 2, c. 2 (1688), it is declared that all grants and promises of fines and forfeitures of particular persons before conviction (which is here the inquest of office) are illegal and void; which indeed was the law of the land in the reign of Edward the Third.

With regard to real property, if an office be found for the king, it puts him in immediate possession, without the trouble of a formal entry, provided a subject in the like case would have had right to enter; and the king shall receive all the mesne or intermediate profits from the time that his title accrued. As, on the other hand, by the *articuli super cartas*, if the king's escheator or sheriff seize lands into the king's hand without cause, upon taking them out of the king's hand again, the party shall have the mesne profits restored to him." Blackstone's Law commentaries, book III.