



A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875

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DEFINITIVE TREATY OF PEACE

Between the United States of America and his Britannic Majesty. (a)

Sept. 3, 1783.

In the name of the Most Holy and Undivided Trinity.

It having pleased the Divine Providence to dispose the hearts of the most serene and most potent Prince GEORGE the Third, by the Grace of God King of Great-Britain, France and Ireland, Defender of the Faith, Duke of Brunswick and Lunebourg, Arch-Treasurer and Prince Elector of the Holy Roman Empire, &c. and of the UNITED STATES OF AMERICA, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore; and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and

(a) The decisions of the Courts of the United States in cases arising under the Definitive Treaty of Peace with Great Britain of September 3, 1783, have been:

The fifth article of the treaty of peace of 1783, between the United States and Great Britain, concluding with this clause: "And it is agreed, that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights;" applies to those cases where an actual confiscation has taken place; and stipulates, that in such cases, the interest of all persons having a lien upon such lands shall be preserved. That clause of the treaty preserved the lien of a mortgagee of confiscated lands, which, at the time of the treaty, remained unsold. *Higginson v. Mein*, 4 Cranch, 415; 2 Cond. Rep. 155.

The treaties with Great Britain, of 1783 and 1794, only provide for titles existing at the time those treaties were made, and not for titles subsequently acquired. Actual possession of property is not ne-

treasures were made, and not for titles subsequently acquired. Actual possession of property is not necessary to give the party the benefit of the treaty. *Blight's Lessee v. Rochester*, 7 Wheat. 535; 5 Cond. Rep. 335.

Where J. D., an alien and British subject, came into the United States subsequent to the treaty of 1783, and, before the treaty of 1794 was signed, died seized of lands, it was held that the title of his heirs to the land was not protected by the treaty of 1794. *Ibid.*

Thomas Scott, a native of South Carolina, died in 1782, intestate, seized of land on James Island, having two daughters, Ann and Sarah, both born in South Carolina before the declaration of independence. Sarah married D. P. a citizen of South Carolina, and died in 1802, entitled to one half of the estate. The British took possession of James Island and Charleston in February and May, 1780; and in 1781 Ann Scott married Joseph Shanks, a British officer; and at the evacuation of Charleston in 1782, she went to England with her husband, where she remained until her death in 1801. She left five children, born in England. They claimed the other moiety of the real estate of Thomas Scott, in right of their mother, under the ninth article of the treaty of peace between this country and Great Britain of the 19th of November, 1794. *Held*, that they were entitled to recover and hold the same. *Shanks et al. v. Dupont et al.* 3 Peters, 242.

All British born subjects, whose allegiance Great Britain has never renounced, ought, upon general principles of interpretation, to be held within the intent, as they certainly are within the words, of the treaty of 1794. *Ibid.* 250.

The treaty of 1783, acted upon the state of things as it existed at that period. It took the actual state of things as its basis. All those, whether natives or otherwise, who then adhered to the American states, were virtually absolved from all allegiance to the British crown; all those who then adhered to the British crown were deemed and held subjects of that crown. The treaty of peace was a treaty operating between states and the inhabitants thereof. *Ibid.* 274.

The several states which compose this Union, so far at least as regarded their municipal regulations, became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign states; and did not derive them from concessions of the British king. The treaty of peace contains a recognition of the independence of these states, not a grant of it. The laws of the several state governments, passed after the declaration of independence, were the laws of sovereign states, and as such were obligatory upon the people of each state. *M'Ilvaine v. Coxe's Lessee*, 4 Cranch, 209; 2 Cond. Rep. 86.

The property of British corporations, in this country, is protected by the sixth article of the treaty of peace of 1783, in the same manner as those of natural persons; and their title, thus protected, is confirmed by the ninth article of the treaty of 1794, so that it could not be forfeited by any intermediate legislative act, or other proceeding for the defect of alienage. *The Society for Propagating the Gospel, &c. v. New Haven*, 8 Wheat. 464; 5 Cond. Rep. 489. See also, post, p. 116, n.

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