

ever the natural rights of its citizens were injuriously affected. This inherent prerogative of sovereignty to exclude aliens from British territory, and to prescribe what conditions it pleases to the permission to enter and reside in it, has been approved by the Judicial Committee of the Privy Council, and is therefore equally the law of the British Empire.<sup>22</sup> And the doctrine of International Law concurs that: "no stranger is entitled to enter the boundaries of a State without its permission, much less to interfere with its full exercise of supreme dominion."<sup>23</sup>

The Supreme Court's decision as to "intransferable privileges" harmonizes with the Roman Law which declares: "Servitudes personales include usufructus, and are enjoyable by sufferance, or forbearance, and so are subject to the jure dominii. The usufructuarius cannot alter the form of the grant of the thing which the dominus utilis can. The first cannot grant away his right, the latter can. Such rights as these are for mutual accommodation, and are consequently of a private nature; but they will not be valid where they perniciously affect the public good."<sup>24</sup>

The fishery privileges conceded to the "inhabitants of the United States" of the trade class of "American fishermen" by the Treaty of 1818, are within this rule as being privileges intransferable to other trade classes in the United States.

These decisions have now become incorporated into the International Law of the United States; and have attained the authority of precedents controlling the Treaty-making power of that Government respecting the class of Treaties conceding alien-subject, or commercial, privileges in what are defined as "the natural rights of home-subjects;" and must therefore be accepted as exceptions to the generally assumed doctrine of International Law, quoted in the beginning of this article; and as establishing a distinction in the applicability of that assumed doctrine between Treaties respecting the higher international

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<sup>22</sup> *In re Adam* (1837), 1 Moore, P.C. 460; *Attorney-General of Canada v. Cain* (1906), Appeal Cases 542.

<sup>23</sup> Phillimore's *International Law* (3rd ed.), vol. 1, p. 221.

<sup>24</sup> Colquhoun's *Roman Civil Law*, vol. 2, pp. 17 and 93.