territory only passes the sovereignty, and does not interfere with private property. This is an established rule of public law, and is acknowledged and respected by all civilized nations. The subjects or citizens of a conquered or ceded country, retain all rights of property, which are not taken away by the new sovereign, and remain under their former laws until they are changed. *Strother* v. *Lucas*, 12 Peter, 438; *Mitchell* v. *United States*, 9 Peters, 734; Black's Com. 107. In *The United States* v. *Percheman* (7 Pet. 87), Chief Justice Marshall, in speaking of the rights to property acquired in Florida before its cession to the United States, remarks: "The people change their allegiance; their relations to their ancient sovereign are dissolved; but their relations to each other, and their rights of property, remain undisturbed." If this be the modern rule in cases of conquest, who can doubt its application to the case of an amicable cession of territory? Had Florida changed its sovereign by an act containing no stipulations respecting the property of individuals, the rights of property in all those who became subjects or citizens of the new government would have been unaffected by the change. This principle was recognized in England in reference to Jamaica as early as 1693, in *Blankard* v. *Coldy*, 4 Modern Rep. 222; also by Lord Mansfield, in *Rex* v. *Vaughan*, 4 Bur. 2500. Slavery now exists in Louisiana, Missouri and Florida, without any act of legislation introducing it; and none was necessary; for being in existence under the implied sanction at least of France and Spain in 1803 and 1819, it was continued, and was not dependent on any positive law for recognition.

It is insisted that the royal proclamation of October 7, 1763, had the effect of abolishing slavery in Canada. Admitting that the king's prerogative included the power of making laws for the English colonies, we have searched through every clause of the proclamation to find a word or sentence which, in terms or by implication, remotely touches the subject. We have been directed to the clause of the proclamation set out in the first part of this opinion, but on looking at it, it will be seen that no new law is decreed, but only the assurance is given that until provincial assemblies can be called, all persons inhabiting or resorting to the colonies of Quebec, East Florida, West Florida and Grenada, may confide in the royal proclamation for the enjoyment of the benefit of the laws of England, and that orders had been given to the governors of said colonies respectively, to erect courts of justice for the hearing and determining of all causes, as well criminal as civil, as near as may be agreeable to the laws of England. The judge's whole testimony, we have noticed, says that this proclamation introduced into all the colonies mentioned in it the "common law of England," and that the genius and spirit of the common law is so hostile to slavery, that whenever it is introduced or prevails, it operates *ipso facto* to abolish slavery.

In 1763 the English acquired, besides Canada, Florida, Dominico, St. Vincent and Tobago, in all which slavery existed; and though the proclamation expressly applied to all, it is well known, and these gentlemen admit, that it did not have the effect of abolishing slavery in Florida and the Grenadines. It is strange that it was potential for the purpose imputed to it in one place, and not in the others. The Supreme Court of Louisiana remarked, in *Seville* v. *Chretien* (5 Mar. 285), that they have not been able to find any trace of a legislative act of the European powers for the introduction of slavery into their American dominions.* Yet it is an undisputed historical fact, that slavery existed in nearly all the English colonies now included in the United States, and that in each of them the "common law" was claimed as their birth-right, and causes in their courts were determined agreeably to the laws of England. If the opinion of the Canadian judges is correct, it is evident that the common law was not uniform in its operation, for it did not perform the work in the thirteen colonies ascribed to it in Canada.

The common law of England was introduced in Missouri by an act of the Territorial Legislature, of the 19th January, 1816, and nobody ever supposed that it was equivalent to an act of emancipation.

In the case of *The Attorney-General* v. *Stewart* (2 Merwale, 156), the question arose, whether the proclamation we have been considering extended the laws of England to Grenada, and it was certainly doubted in that case whether they were carried by force of the proclamation to the province of Quebec. The Master of the Rolls, Sir William Grant, observes: "It seems to be supposed that this was done by the proclamation of 1763, which is set forth in the report. With regard to three of the four governments to which this proclamation related—viz., East Florida, West Florida and Grenada—I am not aware that any controversy as to the effect of it ever arose. Perhaps there may have been, with respect to them, other acts and instruments more directly expressive of his Majesty's intention to introduce the laws of England; but as to the fourth—viz., the government of Quebec, which was included in the same proclamation, and where it must have had the same legal effect as in the others—it became a matter of great and long-continued discussion whether the laws of England had thereby been generally introduced, in abrogation of the ancient municipal laws of the country. In a report made by the Attorney and Solicitor General in 1766, little other effect was ascribed to this proclamation than that of extending to the inhabitants of Canada the benefit of the criminal law of England." But no matter whether or not the proclamation introduced the laws of England into Canada, or whether they produced any change as to the rights of property, it is certain that the act of Parliament of 1774 repealed so much of the proclamation as related to the laws of England, and enacted that the Canadians within the province of Quebec might "hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other their civil rights, in as large, ample and beneficial a manner as if the said proclamation" had not been made; "and that in all matters of controversy relative to property and civil rights," resort "should be had to the laws of Canada as the rule for the decision of the same."

The act of 1790 is only consistent with itself on the idea that it assumed the existence of slavery in Canada. The mention of negroes is only in connection with other property which is exempted from the payment of an import duty; and the prohibition on the sale of negroes or furniture, imported under the act, within twelve months, was to prevent frauds on the revenue, and it implied that sales of negroes were lawful after the expiration of a year from the time they were imported. It is said that this act was for the benefit of British subjects, whose homes were uncomfortable to them in the United States, after our independence was achieved. This is doubtless true; but it is hardly probable that out of tenderness to them, parliament would have established in Canada, for their benefit alone, a system of slavery which had never before existed there, and which it is alleged is so repugnant to the genius of the common law.

The province of Quebec was divided into the provinces of Upper and Lower Canada, by an order in council, August 24, 1791, which took effect 26th December following.

The act of 1793, passed by the Parliament of Upper Canada, not only repealed the emigration act of 1790, but provided for the prospective and gradual emancipation of the slaves born thereafter. It assumed that there were other slaves in the province than such as had been imported under the license granted by the act of 1790, for the 2d section provided that the act should not apply to slaves then in being, who had been brought in under the act of 1790, or to such as had otherwise come to the possession of any person by gift, bequest, or purchase. And if there were no other slaves than such as had been imported under the act of 1790, there was no reason for mentioning them.

It is true this law was the act of Upper Canada, which does not include Montreal; but it was passed very soon after the Province of Quebec was divided, and if slaves were lawfully held in the upper part of the Province before the division it must be supposed that the law which permitted it, operated uniformly throughout the whole Province.

The Parliament of Upper Canada, at its first session in 1792, introduced the English law quite as effectually as the King's proclamation could have done it, as the rule of decision in all controversy relative to property and civil rights; and it could not have thought that the common law was effectual to abolish slavery, otherwise there would be no necessity for the subsequent act of 1793.

* Then the S. C. of L. must certainly have overlooked the French edict of March 1685, known as the *Code Noir*.—ED. JUR.