

expensive litigation ; and these questions Great Britain, in view of the urgent and continued protests made, and passively slighted, cannot justly concede.

Citizenship is determined by birth on the soil. The only exception to the universality of this rule was made in the cases of children born in Oregon during its joint occupation by the United States and Great Britain, under the Treaty of 1818. The Courts held that between 1818 and 1846, children born there of British parents were British subjects ; and that children born there of American parents were citizens of the United States.

Legislative and Executive Sovereignty and Judicial power over territory are incident to the national ownership of the soil. The Supreme Court of the United States has so decided, and has furnished precedents affecting the rights of property within a similarly disputed territory. While Spain was sovereign of Florida, and prior to her treaty with the United States in 1795, her Government had made grants of land within a certain disputed territory, which were subsequently impeached. In giving judgment, Chief Justice Marshall said :—

There was no cession of territory. The jurisdiction of Spain was not claimed or occupied by force of arms against an adversary power ; but it was a naked possession under a misapprehension of right. In such a case, the United States, within whose sovereignty the land was in fact situated, was not bound to recognize the grants of title by the Spanish Government. We think the Treaty settling the boundary an unequivocal acknowledgment that the occupation of the territory, now acknowledged to be United States territory, was wrongful. It follows that the Spanish grants can have therefore no intrinsic validity.

And in construing the Treaty by which Great Britain had ceded the Floridas to Spain, without any description of boundaries, he added :

Great Britain could not, without breach of faith, cede to Spain what she had previously acknowledged to be the territory of the United States. No general words in a Treaty ought to be so construed. We think that Spain ought to have so understood the cession, and must have so understood it as being only to the extent that Great Britain might rightfully cede.

These remarks are equally applicable to the Russian-American Treaty of 1867, ceding Alaska to the United States.

In other cases, the Court has held that Patents of land dated before, but not delivered until after, the ratification of a Treaty ceding territory to the United States, were invalid. Similarly,