

The last sentence taken by itself is certainly an explicit statement that an upper chamber is "land," but ought it not in reason to be read with what has gone before—must we not infer that the real meaning of the author is that the upper chamber by reason of its immoveable connection with the soil over which it rests, has become a part of that land, not that per se, and apart altogether from its connection with the soil, it is land. The learned author certainly never meant to suggest that a chamber suspended from a balloon is "land." Reading the whole passage together, the only reasonable inference appears to be, not that an upper chamber is per se land, but that its connection with the soil makes it in contemplation of law a part of that particular piece of land over which it is erected.

If this be the true meaning of the passages from Preston and Coke it is obvious that the majority of the judges of the Supreme Court have misinterpreted them. For certain purposes no doubt a building in the eye of the law becomes identified with the land on which it rests, so as to become in contemplation of law a part of that land, but the building is not for all that "land"; the "land" on which it rests may belong to one person, and the building to some one else and the owner of the building in that case may not have any interest whatever in the "land." A building may be made of timber and be moveable, whereas it is of the essential character of "land" that it is immoveable. If a building by being placed on land thereby becomes "land," what "land" is it? Is it the piece of land on which it rests? If so is that piece of land transferred to the other side of the street when you remove the building there? We think we have said enough to shew that a building is not "land." Indeed, it is a self-evident proposition. But assuming it is land we ask again what land is it? Is it, as Mr. Justice Duff seems to suggest, a strata superimposed on the natural soil so that each floor and room is to be regarded as a separate and distinct strata of "land," which is not land, as anybody can see, but a species of legal "land" which has no actual existence, except in the brain of lawyers, and in fact mere land "in the air."