

All roads in the United States and its Territories are public roads unless they are defined by a deed or easement, with the exception of Military and Indian Reserved lands. No homestead existed without a public road leading to it, and in most cases through it, and there can be several public roads. These roads are protected by a silent acception and are by law 60 feet wide.

Public roads are those routes chosen at large by the public. As they criss-crossed the continent they were for the most part game trails, given direction by human influence on the need to proceed from point to point. Some are boulevards, wide and spacious. Others are defined by a single track. In the Americas native Americans used these trails, as did Europeans when they came. They were at times adjusted in places to allow tilling of meadows. Trails and roads were not limited to a few known places but covered the landmass much as they do on all continents. Their historic longevity or 'vested rights' were relied upon by the public. The very route that Marco Polo took to Cathay can be traveled today as it was in his time and before. Even the comings and goings of governments has not affected these routes.

FEE SIMPLE --
by Luigi Frascati

English real estate law (or 'Estate Law' as it was known back then) was imported, through colonization, into the earlier forms of law in the U.S.A., Canada, Australia and New Zealand. Many of these states or their territories have since modified this historical law, to varying degrees. A study of the old feudal land system of England provides us with an invaluable glimpse of legal history regulating the most valuable asset of them all: land. In medieval times, land was the sole form of wealth and it depended primarily on possession. If you had it, you owned it, you wanted it, you fought for it, you found it, you kept it. There were no courts or police force ready to recognize or enforce "legal rights" as we know them today. All this changed with the Norman conquest of England in 1066. William decreed that he owned all the land in England by right of conquest. Not one acre of England was to be exempted from this massive expropriation. This sudden vacuum of privately-held land was promptly filled by a variety of huge land grants given by the new King to either his Norman officers or to those of the English who were ready to recognize him as king. The device used by the King to control and administer his land was that of tenure. Tenure was the key component of the feudal system. The King struck a bargain with a Lord for a large chunk of land. The Lords that held their tenure directly from the King were called Tenants-in-chief. It was this group of persons who formed the basis of English aristocracy and began, by the process of subletting the King's land, the implementation of the feudal system.

Tenures were of a variety of duration known as "estates" and the Fee Simple Estate was the most extensive and allowed the Tenant to sell or to convey by will or be transferred to the Tenant's heir when he died. In modern law, almost all land is held in fee simple and this is as close as one can get to absolute ownership in common law. It was in this context that the British began their dominion over the seas and their explorations which led to the modern nations of Australia, Canada, New Zealand and the United States of America.

This massive expropriation defines Eminent Domain (Eminentem 1541AD exalted in rank or station, and dominicum 550AD sovereign power, belonging to a lord). This is sometimes referred to as 'Eminent Domain'.

The full thrust of *Eminent Domain* in all States and Territories joined in the United States are the people. They hold the underlying title. They, if you will, are the sovereign. To exercise Eminent Domain is to strip the overlying title of the fee holder "*Fee - heritable land held from a Feudal Lord in return for services*", and to leave the underlying title exposed "*Feudal Lord*". This is embodied in the Land court's reply to the question of road ownership. In the statement "it is as protected as if it had remained with the federal government" lies the fact that once the transferable title has been removed it can never be created again. In other words, governments that exercise Eminent Domain cannot turn around and create title over the land and sell it, as government exists at the will of the people, to '*establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare*'.

After the War of Independence, the supreme authority in the United States was the Constitution. There was a large portion of the population hesitant as to whether they would enjoy the same level of protection from invasion as they had under Imperial rule. Every colony, now a state, owed huge debts to foreign governments and financial institutions, none of which were being paid, and there was confusion as to who was responsible for these debts, as the transfer from colony under Imperial rule to a state under republic governance was out of the scope of thinking of most people anywhere.

We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

In order to make a more stable union, Alexander Hamilton collected the debt and the title to the lands pledged as collateral and placed them under the central government's control. The central government became liable for all these debts and was to sell the land and pay off the debt. This is how the central government became land owner in the thirteen original States. The war between the union and the secession states was fought over the principal of, WE THE PEOPLE. When the war was over, each of those secession states became territories with a military governor. Each territory had to petition for statehood by filing corporation papers and bylaws which became their constitution with the central government. Congress restricted states on making laws.

ARTICLE IV:

Section 3 [Admission of States]

(1) New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

(2) The Congress shall have Power to dispose of and make all needful Rules and Regulations

respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4

The United States shall guarantee every State in the Union a Republican form of Government, and shall protect each of them against Invasion; and on Application of Legislature, or of the executive (when the Legislature cannot be convened) against Violence.

Public roads, had in most cases, a beginning as trails that were then widened to drive livestock on, then sledges and finally carts. Most freight traveled by water as there were no restrictions there. Navigability is thought of as the ability to float objects. This is a limitation placed at a specific place and time, but in reality it is commerce that sets ownership and limitations. At our present time the movement of water in a river or stream is transport of water itself. This fact is displayed where roads and power lines cross rivers or creeks. The road or power line of commerce cannot restrict the commerce of the water course, as it was there first, and cannot be restricted by the second. Post roads were declared as those roads where the commerce traversed the colonies along a specified road. Funds were allocated to the upkeep of these roads and trails to allow commerce to be carried on without restrictions of nature or man. As mail was government commerce it was not subject to toll. along post roads, as it participated in the upkeep. Courts have ruled that if the vehicles carrying mail also carried freight and persons, those commodities were subject to toll. If a private road ran along side of a toll road it could not be used to carry mail as the government had specified which was to be the post road and had assisted in its upkeep.

The Cumberland Road was built by General Braddock with the engineering help of George Washington and Thomas Jefferson to push the French off the Ohio River. It was later reconstructed by the U.S. Government to aid in the settlement of the Northwest Territories, those lands laying north and west of the Ohio River. Within a few years the road was deteriorating at a rapid rate as there was no money in the US treasury to maintain it. The road was given to the respective states to maintain. This was the first and only road constructed solely by the US Government. It was designated as a Post road and the States set up toll booths on their part for reconstruction and maintenance. The case was brought by the state of Pennsylvania against the US Government for toll for the mail stage.

In the Northwest Territories the US Government took a different approach. The land was sold to speculators who marketed it to interested parties. As for the roads, the government gave sections of land along the road to those who would build the road. The roads were only temporary and as soon as title was received for the land it was sold without regard for the road. This was the same system used for the railroads, only there was more land involved. Some railroads were constructed and once title was received for the land the rails and ties were picked up and the next year laid down in a different spot. Because of this great abuse, inspectors started examining the railroads each year to prevent this from being carried out.

As the push west became greater into the Oregon River Country, property rights were by presence only. No title protected your claim as there was no underlying title. Self defense was

the only security.

In two letters written by Osborne Russell to his sister in the east he states that he would like to come visit them.. But if he left for even just a short period, it would be considered an abandonment and the land would be open for others to claim. Fee simple or fee absolute is a title awarded by the underlying grantor. That grantor can be a sovereign or as in the US it is “we the people”, and for this reason the granted title is subject to the underlying title or *Eminent Domain*. Territorial law is that primary guarantee of security and the granting of fee simple. It says “we the people” own this land and we will grant you a right of ownership subject to the laws of this land and our *Eminent Domain*.

The Oregon Territory was established on August 14, 1848.

A debate had raged in both houses of Congress for more than twenty years.

December 20, 1824 -- OF DEBATES IN CONGRESS-- PAGE 14

Occupation of the mouth of Oregon:

“I know, that it is an opinion much urged, and generally adopted, that we should keep our population as much condensed as possible; that there would be danger in erecting a territory at so great a distance, as protection would be difficult, if not impossible, and that there would be danger of separation; that, in all military operations, the frontier to be protected should be as small as the nature of the case would permit, and that well fortified.”

A Territorial government is the only mode by which the purchasers and occupants of land beyond the limits of any State can be protected in their rights of person and property. Hence the implied power of Congress to establish such a government. (U. S. V. Railroad Bridge Co., 6 McLean, 517; U. S. v. Gratiot, 14 Pet., 526; State v. Navigation Co., 11 Mart., 309).

Acts of the United States Congress August 14, 1848

No. 154 An act to establish the Territorial government of Oregon.

Be it enacted by the Senate and the house of Representatives of the United States of America in Congress assembled, that from and after the passage of this act, all that part of the Territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the Territory of Oregon, shall be organized into and constitute a temporary government by the name of the Territory of Oregon: Provided, that nothing in this act contained shall be construed to impair the rights of persons or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed: And provided also, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in several religious societies to which said missionary stations respectively belong: And provided further, That nothing in this act contained shall be construed to inhabit the government of the United

States from dividing said Territory into two or more Territories, in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any State or Territory of the United States.

Sec. 6. And be it further enacted, That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and law of the United States; but no law shall be passed interfering with the primary disposal of soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly shall be submitted to the Congress of the United States, and if disapproved shall be null and of no effect: Provided, That nothing in this act shall be construed to give power incorporate a bank, or any institution with banking powers, or to borrow money in the name of the Territory, or to pledge the faith of the people of the same for any loan whatever, either directly or indirectly. No charter granting any privilege of making, issuing, or putting into circulation any notes or bills in the likeness of bank notes, or any bounds, script, drafts, bills of exchange or obligations, or granting any other banking powers or privileges, shall be passed by the legislative assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said Territory; nor shall said legislative assembly authorize the issue of any obligation, scrip, or evidence of debt by said Territory, in any mode or manner whatever, except certificates for services to said Territory; and all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void; and all taxes shall be equal and uniform, and no distinction shall be made in assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

Sec. 14. And be it further enacted, That, the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory, of the United States north-west of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven; and shall be subject to all the conditions, and restrictions and probations in said articles of compact imposed upon the people of said territory; and the existing law now in force in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the constitution of the United States, and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed, by the legislative assembly of the said Territory of Oregon; but all laws heretofore passed in said territory making grants of land, or otherwise affecting or incumbering the title to lands, shall be, null and void; and the laws of the United States are hereby extended over, and declared to be in force in said territory, so far as the same, or any provision thereof, may be applicable.

Sec. 20. And be it further enacted, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and

the same is hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

Sec. 26. And be it further enacted. *That the revenue law of the United States be, and are hereby, extended over the Territory of Oregon.*

-Approved, August 14, 1848 -

The Oregon territorial legislature (A body constructed of elected representatives of the populace, county commissioners, and a Presidential appointed representative of the US Government, the Governor, all on the US payroll and subject to strict compliance of the United States Congress) in June 31,1851 constructed and passed a law called “Territorial Roads”, setting aside all existing roads and trails for public use with a width of 60 feet,(this was the required diameter of a circle needed to turn a team and wagon around without trespass) and any roads or trails created in the future to be covered under this same law. They were to remain in title to the Public in perpetuum. The county commissioners were directed to survey, mark , establish mile posts, and record all existing roads and trails, and all that would be opened in the future, and to maintain that record. The acts of location and monumenting were to be carried out by the County Surveyor under the direction of the County Commissioners, both members of the Governing court, being able to give and take oaths, and in this case they are representatives of the Congress of the United States. It is the County Surveyor who is responsible for location, marking and keeping a record. It is also the Road supervisors duty to keep competent records, and the sworn duty of Commissioners and the Land surveyor to protect the public trust. Surveyors by oath or by licensors are given special privileges in interpreting the law, and are judged by a court of law, and not by peers. The applications of mathematics is not enough. There must be an understanding of all land laws and an asserted effort to enforce. And it is the duty of the Court to determine the appropriate application of the law.

TERRITORIAL ROADS

An Act, to define the manner of locating Territorial Roads.

Sec.

- 1. To be laid out within one year from the passage of the act authorizing the same.*
- 2. Mode specified.*
- 3. Certified return of survey and plat required.*
- 4. Returned and recorded in office of secretary—also, in clerk’s office of each county.*
- 5. Expense paid by counties.*
- 6. Width of roads established.*
- 7. No part of expense paid by Territory, except the road from Astoria to Wallamet valley.*
- 9. Road from White’s Ferry to Aquina Bay.*
- 10. Act in force from passage.*

Section 1. Be it enacted by the Legislative Assembly of Oregon Territory, That all territorial roads to be hereafter located and established within this Territory, shall be viewed, surveyed, and established, and returns made thereof, agreeably to the provisions of this act, within one year from the passage of the act by which said road or roads may be granted, or authorized to be laid out, respectively.

Sec. 2. The commissioners appointed to locate and establish any territorial road, shall cause the same to be correctly surveyed, and marked from the beginning, throughout the whole distance, by setting stakes in the prairie, at three hundred yards distance, and blazing trees in the timber; they shall establish mile-posts, which shall be marked with a marking iron, in regular progression, from the beginning to the termination of said road.

Sec. 3. The commissioners and surveyor of each road, shall make a certified return of the survey and plat of the whole length of said road, specifying, in said return, the width, depth, and course of all streams, the position of all swamps and marshes, and the face of the country generally; noting when timber and when prairie, and the distance said road shall have been located in each county.

Sec. 4. Said return and plat shall be signed by a majority of the commissioners, and the surveyor of said road, and forwarded to the secretary of the Territory, within sixty days after the view and survey of the same, to be by him recorded and preserved; they shall also, within sixty days as aforesaid, deposit in the office of the clerk of the Board of county commissioners of each county through which said road shall be laid, a return and plat as aforesaid, of so much of said road as shall be laid out and established in said county, to be there recorded as aforesaid.

Sec. 5. Said commissioners shall, after the completion of the survey of any road as aforesaid, make out a certified account of all services rendered, as well by the surveyor and other hands, as themselves; charging each county through which said road may have been laid, a proportion of the expense, agreeably to the number of days employed thereon; and the Board of commissioners of said county shall audit and settle the same.

Sec. 6. All territorial roads authorized to be laid out by any law of this territory, and not yet commenced, shall be laid out in the manner prescribed in this act; and the commissioners shall comply with all the regulations herein contained. And further, The established width of all territorial roads shall be sixty feet.

Sec. 7. When any road shall have been located and established agreeably to the provisions of this act, the same shall be and remain a public highway, and shall be opened and worked by the

counties through which it shall be laid, as county roads are; and no part of the expense of laying out, and establishing any territorial road, or the damages sustained by any person or persons in consequence of laying out any territorial road, shall be paid out of the territorial treasury: Provided, That the expenses of locating and establishing the territorial road from Astoria to Wallamet Valley shall be paid out of the territorial treasury.

Sec. 8. The Act entitled "An Act to locate a territorial road from White's Ferry to the Aquina Bay," is not to be included in the provisions of this act.

Sec. 9. This act to take effect, and be in force, from and after its passage.

Passed the House of Representatives, January 31st, 1851.

Passed the Council, February 4th, 1851.

Under section 3, Article IV, of the Constitution, Congress governs all the territory of the United States. Congress can acquire territory by purchase or by treaty, and then can enact laws for its government.

The Supreme Court of the United States, in *American Insurance Co. V. Canter* (1 Peters, 511), said:

In legislating for the Territories Congress exercises the combined powers of the General and of the State government.

The right to govern the territories of the United States is the inevitable consequence of the right to acquire territory. (*Dred Scott v. Sandford*, 19 How., 393; *American Insurance Co. v. Canter*, 1 Pet., 511 U. S. v. *Gratiot*, 14 Pet., 526.).

Congress possesses the absolute power of governing and legislating for the Territories, and may give a Territorial court jurisdiction over a suit brought by or against a citizen of a Territory. (*Sere v. Pitot*, 6 Cranch., 332).

The power to govern the Territories subject to the Constitution is in Congress. It may do it mediately or immediately, either by the creation of a Territorial government with power to legislate for the Territory, subject to such restraints and limitations as Congress may impose upon it, or by the passage of laws directly operating upon the Territory, without the intervention of a subordinate government. (*Edwards v. Panama*, 1 Oregon, 418.).

A Territorial government is the only mode by which the purchasers and occupants of land beyond the limits of any State can be protected in their rights of person and property. Hence the implied power of Congress to establish such a government. (U. S. V. *Railroad Bridge Co.*, 6 McLean, 517; U. S. v. *Gratiot*, 14 Pet., 526; *State v. Navigation Co.*, 11 Mart., 309).

The power to acquire necessarily carries with it the power to preserve and apply to the purposes for which it was acquired. It is therefore the duty of Congress to establish a government over the people in a Territory. The form of government to be establish necessarily rest in the discretion of Congress. Some form of civil authority is absolutely necessary to organize and preserve civilized society and prepare it to become a State, and what is the best form must always depend on the condition of the Territory at the time, and the choice of the mode must depend upon the exercise of a discretionary power by Congress, acting within the scope of its constitutional authority.

(*Dred Scott v. Sanford*, 19 How., 393.).

Was the Oregon law presented to Congress as required by its charter? There are ample evidence Oregon had complied, and that Congress applied the law to all public lands of the United States, when Congress constructed Act No. 206 giving the same wrights to corporations within Incorporated States passing and singed into law, August 4, 1852.

Act No 206 An act to grant the right of way to all rail and plank roads and Macadamized turnpikes passing through the public lands belonging to the United States .

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way shall be, and is hereby granted to all rail and plank road, or Macadamized turnpike companies that are now or maybe chartered within the next ten years hereafter, over and through any of the public lands of the United States, over which any rail or plank road or Macadamized turnpikes are or may be authorized by an act of the legislature of the respective States in which public lands may be situated; and the said company or companies are hereby authorized to survey and mark through the said public lands, to be held by them for the track of said road, one hundred feet in width: Provided, That in case where deep excavation or heavy embankment is required for the grade of such road, then at such places a grater width may be taken by such company, if necessary, not exceeding in whole two hundred feet.

Sec. 2. And be it further enacted, That the said company or companies shall have the right to take from the public lands, in the vicinity of said road or roads, all such materials of earth, stone, or wood, as

may be necessary or convenient, from time to time, for the first construction of said road or roads, or any part thereof, through said lands.

Sec. 3. And be it further enacted, That there shall be, and is hereby granted to said company or companies, all necessary sites for watering places, depots, and workshops along the line of said road or roads, so far as the places convenient for the same may fall upon the public lands: Provided, That no one depot or watering place shall contain over one square acre, and that said sites shall not be nearer to each other than tem miles along the line or lines of said road or roads: Provided further, That the said grants herein contained, as well of the use of the public lands, as of the materials for the construction of said road or roads shall cease and determine, unless the road or roads be begun within ten years from and after the passage of this act, and completed within fifteen years thereafter: And provided moreover, That if any road, at the time after its completion, be discontinued or abandoned by said company or companies, the granted, revert back to the general government: Provided further, That when a location for either of said railroads or plank roads, Macadamized turnpikes, or site for depots on the line of each road or roads shall be selected, the proper office of such road or roads shall transmit to the commissioner of the General Land-Office a correct plat of the survey of the sites of sites for depots before such selection shall become operative: Provided further, That none of the foregoing provisions of this act shall apply to, or authorize any rights in any lands of the United States other than such as are held for private entry and sale, and such as are unsurveyed and not held for public use by erection or improvements thereon.

Sec. 4. And be it further enacted, That the right of way through the public lands of the United States lying in Black Rock, in the county of Erie and State of New York, be, and the same is hereby granted to the Lockport and Buffalo Railroad Company: Provided, That in the opinion of

the President of the United States such grant be not injurious to the public interest, and that the location shall be approved by the President as to the position and width of the railroad: And provided further, That if the said railroad shall not be completed within two years, or if at any time after its completion, the said railroad be discontinued or abandoned, the grant shall cease and determine. Approved, August 4, 1852

Again Congress passed and signed into law Act No. 278 giving the same rights to corporations within Territories March 3, 1855.

Act No. 278. An Act extending the provisions of the act of August fourth, eighteen hundred and fifty-two, entitled “ An act to grant the right of way to all rail and plank roads and macadamized turnpikes passing through the public lands in Territories of the United States.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That the provisions of the act entitled “ An act to grant the rights of way to all rail and plank roads and macadamized turnpikes passing through the public lands belonging to the United States,” approved August fourth, eighteen hundred and fifty-two, be, and the same is hereby ,extended to all of the public lands of the United States in the Territories of the United States. Approved, March 3, 1855

When Congress enacted the Homestead law 1862, there is clear evidence that this law was well understood and accepted, as the patentee was only required to describe the claim by the legal subdivision as the roads were secured under the 1851 law. No homestead could be claimed without residence and residence requires access and that access is by public road. The time required for proving a homestead claim was five years, the road had been established as it was driven well before the claim. Every homestead has a public road leading to it and probably through it making it impossible to have a land locked parcel.

Roads recorded in the field notes and shown on plat maps were those that existed before the plat was open to Homesteading and are public by the above law and sixty feet wide.

In 1866 and 1867 the US Government Ratified and signed Land Treaties and Settlement Acts with more than a twenty seven Indian Tribes to prevent intrusion on these newly created Reservations. The Thirty-Ninth Congress in dealing with the mining laws enacted by its citizens in the Mexican state of Upper California now a state of the United States and now used in the state of Nevada added the Territorial Road law with restrictions. This placed all laws governing federal lands under the jurisdiction of the Congress as stated Under section 3, Article IV, of the Constitution.

On the 26th day of July in 1866 The Thirty Ninth Congress enacted in *Sess. I. Chapter 262 sec.8* “*The right of way for the construction of highways over public land, not reserved for public, uses is hereby granted*” . (records written by Horace Greeley at the time of the signing of this bill show no commas in the stated law they have been added later by type setters and change the meaning of the law if parsing were to be added it should read (“*The right of way for the construction of highways over public land “not reserved” for public uses is hereby granted*”)) This new wording restricts the 1851 law relied on up to this date and protected the newly

created Reservations from intrusion by homesteaders it also links squarely to *Eminent Domain* by stating “*for public uses*”. At this time the only reserved lands were those of the Military certainly not public and those newly established for the Indians again not public.

This addition did not replace the 1851 law as it makes no mention of the existing law, but confirms the spirit of the law as stated in this 1845 case.

(The United States, Plaintiffs, v. William H. Freeman)

Statutes in ‘pari materia’ should be taken into consideration in construing a law.

If a thing contained in a subsequent statute be within the reason of a former statute, it shall be taken to be within the meaning of that statute, And if it can be gathered from a subsequent statute in ‘pari materia’ what meaning the legislature attached to the words of a former statute, this will amount to a legislative declaration of its meaning, and will govern the construction of the first statute.

The meaning of the legislature may be extended beyond the precise words used in the law, from the reason or motive upon which the legislature proceeded, from the end in view, or the purpose which was designed; the limitation of the rule being that to extend the meaning to any case, not included within the words, the case must be shown to come within the same reason upon which the law-maker proceeded, and not a like reason.

...1873 to 1877, Boutwell was a U.S. Senator. Then, during Rutherford B. Haye’s administration, the president appointed him to prepare a new codification of the statutes of the United States; the Revised Statutes of the United States (1878) was the result. By 1880, Boutwell was in private law practice in Massachusetts.

The construction of laws by States placing restrictions on federal law is clearly unconstitutional, and when States set out to construct laws that are retroactive governing Federal law they are prohibited by ex-post facto laws.