

# Ignorantia juris non excusat

(Latin for "ignorance of the law does not excuse")

I recently saw a post with a state code that addressed the creation of a will to rebut the presumption that you are a bastard child; an orphan; dead; lost at sea/see:

## 2105.15 [Effective Until 1/13/2012] Designation of heir at law.

A person of sound mind and memory may appear before the probate judge of his county and in the presence of such judge and two disinterested persons of such person's acquaintance, file a written declaration declaring that, as his free and voluntary act, he did designate and appoint another, stating the name and place of residence of such person specifically, to stand toward him in the relation of an heir at law in the event of his death. Such declaration must be attested by the two disinterested persons and subscribed by the declarant. If satisfied that such declarant is of sound mind and memory and free from restraint, the judge thereupon shall enter that fact upon his journal and make a complete record of such proceedings. Thenceforward the person designated will stand in the same relation, for all purposes, to such declarant as he **could if a child born in lawful wedlock**. The rules of inheritance will be the same between him and the relations by blood of the declarant, as if so born. A certified copy of such record will be prima-facie evidence of the fact stated therein, and conclusive evidence, unless impeached for actual fraud or undue influence. After a lapse of one year from the date of such designation, such declarant may have such designation vacated or changed by filing in said probate court an application to vacate or change such designation of heir; provided, that there is compliance with the procedure, conditions, and prerequisites required in the making of the original declaration. Effective Date: 10-01-1953

I pulled an "all nighter" last night researching the Cestui Que Vie Trust and how this could be related. I read the Cestui Que Vie Act for the umpteenth time and a lightbulb came on...

[X2Provided always That if any person or [X3person or] persons shall be evicted out of any Lands or Tenements by vertue of this Act, and afterwards if such person or persons upon whose life or lives such Estate or Estates depend shall returne againe from beyond the Seas, or shall on prooffe in any Action to be brought for recovery of the same [to] be made appeare to be liveing; or to have beene liveing at the time of the Eviction That then and from thenceforth the Tennant or Lessee who was outed of the same his or their Executors Administrators or Assignes shall or may reenter repossesse have hold and enjoy the said Lands or Tenements in his or their former Estate for and dureing the Life or Lives or soe long terme as the said person or persons upon whose Life or Lives the said Estate or Estates depend shall be liveing, and alsoe shall upon Action or Actions to be brought by him or them against the Lessors Reversioners or Tennants in possession or other persons respectively which since the time of the said Eviction received the Proffitts of the said Lands or Tenements recover for damages the full Proffitts of the said Lands or Tenements respectively with lawfull Interest for and from the time that he or they were outed of the said Lands or Tenements, and kepte or held out of the same by the said Lessors Reversioners Tennants or other persons who after the said Eviction received the Proffitts of the said Lands or Tenements or any of them respectively as well in the case when the said person or persons upon whose Life or Lives such Estate or Estates did depend are or shall be dead at the time of bringing of the said Action or Actions as if the said person or persons where then liveing.]

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**"Prooffe in any ACTION against the LESSORS REVERSIONERS or TENNANTS"**  
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This is broken down to layperson's terms, here: <http://www.legislation.gov.uk/aep/Cha2/18-19/11/contents> and reads:

**[I.]. Cestui que vie remaining beyond Sea for Seven Years together and no Proof of their Lives, Judge in Action to direct a Verdict as though Cestui que vie were dead.**

**IV. If the supposed dead Man prove to be alive, then the Title is revested. Action for mean Profits with Interest.**

Upon reading this I researched the definitions of the words. I have a 1933 Black's Law Dictionary (Third Edition). It has much more detail than the online version that so many people use. Historians have noted that until around the time of the Great Depression, the majority of American household had two books in their possession; the Bible and a law dictionary. I find this most intriguing...

I crossed referenced many of the words. This research was very informative and I suggest everyone purchase an old Black's as just occasionally opening the book and reading random definitions is a very enlightening and educational experience. The one I have was only \$60 on ebay. The definitions can be mentally exhausting, so I have addressed only the ones I feel are most relevant.

**Action-** Conduct; behavior; something done; the condition of acting; an act or series of acts. In practice- The legal and formal demand of one's right from another person or party made and insisted on in a court of justice. An action is merely the judicial means of enforcing a right. Action is the form of a suit given by law for the recovery of that which is one's due; the lawful demand of one's right. An action is a legal proceeding by a party complainant against a party defendand to obtain the judgmentof the court in relation to some right caimed to be secured, or some remedy claimed to be given by law, to the party complaining.

**Real Action-** At the common law. On brought for the specific recovery of lands, tenements or hereditaments.They are droitural whn they are based upon the right of property, an possessory when based upon the right of possieesion. They are either writs of right; writs of entry upon disseisin (which lie in the per, the per et cui, or the post), intrusion, or alienation; writs ancestral possessory, as mort d'ancestor, aiel, besaiel, sossinage, or nuper obiit. The former class was divided into droitural, founded upon demandant's own seisin, and ancestral droitural upon the demandant's claim in respect of a mere right descended to him from an ancestor. Possessory actions were divided in the same way- as to the demandant's own seisin and as to that of his ancestor. Among the civilians, real actions, otherwise called "vindications," were those in which a man demanded something that was his own. They were founded on domination, or jus in re. The real actions of the Roman law were not, like the reala actions of the common law, confined to real estate, but they included personal, as well as real, property.

**Action to Quiet Title-** One in which plaintiff asserts his own estate and declares generally that Defendant claims some estate in the land, without defining it, and avers that the claim is without foundation, and calls on defendant to set forth the nature of his claim, so that it may be determined by decree. It differs from a "suit to remove a cloud," in that plaintiff therein declares on his on title, and also avers the source and nature of defendant's claim, points out its defect, and prays that it may be declared void as a cloud on the plaintiff's estate. The apparent difference between an action to restore a lost instrument and one to quiet title is that, in the former, ordinarily both the titles of plaintiff and defendant are deraigned in the complaint, which must disclose that, notwithstanding an apparent interest of defendant the property belongs to the plaintiff; and in the latter action the complaint nee only allege the ultimate fact of plaintiff's interest and defendant's outstanding claim.

**Cestui Que Trust-** He who has a right to a beneficial interest in and out of an estate the legal title to which is vested in another. The person who possesses the equitable right to property and received the rents, issues and profits thereof, the legal estate of which is vested in a trustee. It has been proposed to substitute for this uncouth term the English word "beneficiary," and the latter, though still far from universally adopted, has come to be quite frequently used. It is equal in precision to the antiquated and unwieldy Norman phrase, and far better adapted to the genius of our language.

**Cestui Que Use-** He for whose use and benefit lands or tenements are held by another. The cestui que use has the right to receive the profits and benefits of the estate, but the legal title and possession (as well as the duty of defending the same) reside in the other.

**Cestui Que Vie-** He whose life is the measure of the duration of an estate. The person for whose life any lands, tenements, or hereditaments are held.

**Holden-** (*Archaic or dialect a past participle of hold*)

**Hold v.-** To possess in virtue of a lawful title; as in the expression, common in grants, "to have and to hold," or in that applied to notes, "the owner and holder." To be the grantee or tenant of another; to take or have an estate from another. To bind or obligate; to restrain or constrain; to keep in custody or under an obligation. To administer; to conduct or preside at; to convoke, open, and direct the operations of. To possess; to occupy; to be in possession of or authority over.

**Hold n.-** In old law. Tenure. A word constantly occurring in Conjunction with others, as freehold, leasehold, copyhold, etc., but rarely met with in the separate form

**Lessors Reversioners-**

**Lessor-** He who grants a lease.

**Lease-** A conveyance of lands or tenements to a person for life, for a term of years, or, at will, in consideration of a return of rent or some other recompense. The person who so conveys such lands or tenements is termed the "lessor," and the person to whom they are conveyed, the "lessee;" and when the lessor so conveys lands or tenements to a lessee, he is said to lease, demise, or let them. A conveyance of any lands or tenements, (usually in consideration of rent or other annual recompense,) made for life, for years, or at will, but always for a less time than the lessor has in the premises; for, if it be for the whole interest, it is more properly an assignment than a lease. A contract in writing, under seal, whereby a person having a legal estate in hereditaments, corporeal or incorporeal, conveys a portion of his interest to another, in consideration of a certain annual rent or render, or other recompense. "Lease" or "hire" is a synallagmatic contract, to which consent alone is sufficient, and by which one party gives to the other the enjoyment of a thing, or his labor, at a fixed price.

**Preceding-** In a general sense, the form and manner of conducting juridical business before a court or judicial officer. An act which is done by the authority or direction of the court, express or implied; an act necessary to be done in order to obtain a given end; a prescribed mode of action for carrying into effect a legal right. In a more particular sense, any application to a court of justice, however made, for aid in the enforcement of rights, for relief, for redress of injuries, for damages, or for any remedial object.

**Reversioners-** A person who is entitled to an estate in reversion. By an extension of its meaning, one who is entitled to any future estate or any property in expectancy.

**Reversion-** In Real Property Law- A reversion is the residue of an estate left by operation of law in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised. In a general sense, a returning. In law, the returning of an estate to the grantor, or his heirs, after a particular estate is ended. The word "revert" has the same meaning. A reversion is the residue of an estate left in the grantor, to commence possession after the determination of some particular estate; while a remainder is an estate limited to take effect and be enjoyed after another estate is determined. In Personality- "Reversion" is also used to denote a reversionary interest; e.g., an interest in personal property subject to the life interest of some other person.

**Residue-** The surplus of a testator's estate remaining after all the debts and particular legacies have been discharged. The "residue" of a testator's estate and effects means what is left after all liabilities are discharged, and all the purposes of the testator, specifically expressed in his will, are carried into effect.

**Tenements-** This term, in its vulgar acceptance, is only applied to houses and other buildings, but in its original, proper, and legal sense it signifies everything that may be *holden*, provided it be of a permanent nature, whether it be of a substantial and sensible, or of an unsubstantial, ideal, kind. Thus, *liberum tenementum*, frank tenement, or freehold, is applicable not only to lands and other solid objects, but also to offices, rents, commons, advowsons, franchises, peerages, etc. "Tenement" is a word of greater extent than "land," including not only land, but rents, commons, and several other rights and interests issuing out of or concerning land. **Dominant Tenement-** One for the benefit or advantage of which an easement exists or is enjoyed. **Servient Tenement-** One which is subject to the burden of an easement existing for or enjoyed by another tenement.

In my opinion, I think all one needs to do is to create a revocable living trust, then open a probate estate. This action should rebut the presumption of death and collapse the trust (or establish you as the executor/administrator). We could also forgive our trespassers by not filing a lawsuit against the state (United States). This would show that we are peaceful inhabitants and bear no grudges.

There still may be the need to sever all contracts, i.e. licenses, social security, status, etc. buy this remains to be seen...