

AMERICAN CONSTITUTIONALISM  
VOLUME II: RIGHTS AND LIBERTIES  
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Supplementary Material

Chapter 3: The Founding Era – Individual Rights/Property/Due Process

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**Bowman v. Middleton, 1 Bay 252 (S.C.Com.Pl.Gen.Sess 1792)**

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*In 1677, South Carolina granted John Nicholls 510 acres of land along the Ashley River. Twenty-four years later, South Carolina granted John Cattel 240 acres of land along that river. The Nichols family claimed that they owned some of the land granted to Cattel. The South Carolina colonial legislature in 1712 rejected this claim. Representatives passed a law declaring that the entire land grant to Cattel was valid. Over the next sixty years, Bowman inherited the Nicholls lands and the Cattel family transferred some of their ownership rights to Middleton. Bowman then sued Middleton, claiming that the 1712 South Carolina law violated his property rights.*

*The South Carolina Court of Common Pleas supported Bowman. The justices ruled that legislatures could not resolve disputes over who had valid title to property. Doing so, their opinion declared, risked taking private property by legislative decree. On what basis did the justices make that claim?*

The Court . . . were clearly of opinion, that the plaintiffs could claim no title under the act in question, as it was against common right, as well as against Magna Charta, to take away the freehold of one man, and vest it in another; and that too, to the prejudice of third persons, without any compensation, or even a trial by a jury of the country, to determine the right in question. That the act was therefore, *ipso facto*, void. That no length of time could give it validity, being originally founded on erroneous principles. . . .

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