

'Call to RESET' ep. 5 March, 22nd, 2021
"Legal Fiction"

Show Notes-Transcript

Hi I'm still Dahni and Welcome to, 'Call to RESET'. Happy Spring. New recording digs (my office). My wife says it has the best light so we will see how this goes.

I wanted to post this, for the first day of spring, but as far as I'm concerned, it's today, around here any way. On 3/20/21, our daffodils, tulips, and our crocus (or croci), were all starting to come up. But as of this morning, only the crocus were in bloom, making them the first flowers of our spring here!



Today is March 22nd, 2021, ep. 5, "Legal Fiction?"

Let's recap from the last episode and where we are today.

Last time in episode 4, we looked at "The Law of Emergency". It is number two of things we need to know and understand. This along with the other— "In Times of War the Law is Silent" (#2), and the Acts of President Abraham Lincoln between 1860-1863, form a mathematical axiom (something accepted as true)—

"Things = to the same things are = to each other!"

A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, [now 88] freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency....from, at least, the Civil War in important ways shaped the present phenomenon of a permanent state of national emergency."

Senate Report, 93rd Congress, November 19, 1973

So everything so far, beginning with our Constitution of 1789 —

"extraordinary Occasions = "the Public Safety require it = setting the states into districts = the Lieber Code (rules of engagement and occupation) of one country into another = "In Times of War the Law is Silent" = some state of National Emergency (by law became permanent), and these all form a mathematical axiom (accepted as true)—

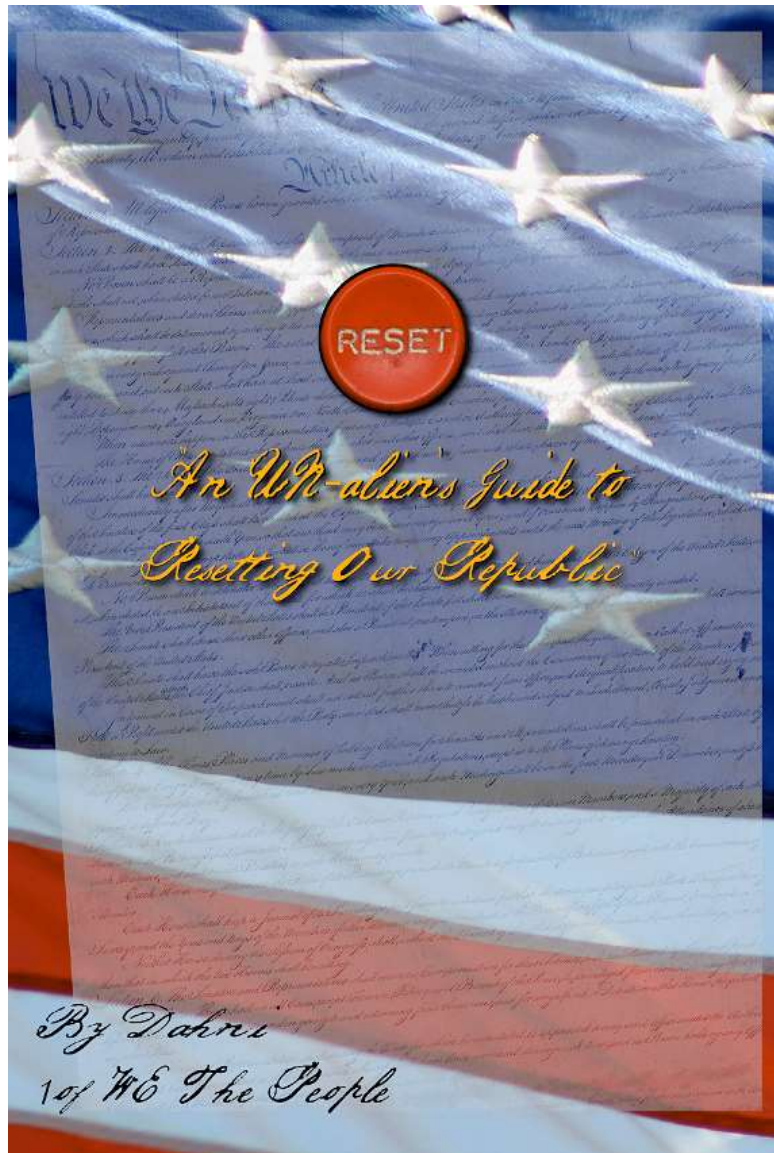
"Things = to the same things are = to each other!"

Today, #3—

“Legal Fiction?”

Well what is “Legal Fiction”? It is a thing and it is a legal term. It has been around since ancient times and primarily sourced from, the Roman Empire. In my book, ‘RESET “An UN-alien’s Guide to Resetting Our Republic’’. I not only included “Legal Fiction” in a list of terms and definitions used in the book, there was an entire chapter called, ‘Legal Fiction.’

For more Information see: ResetBook.com



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Prior to publication in 2012, I spent years of research for the content of this book (2009-2112). I had several people whose opinions and expertise I valued and trusted as feedback for what I had discovered. One was a Supreme Court Judge of the 7th District, in the State of New York. He was a neighbor and I frequently sought him out for his legal point of view. Surprising to me then, he had never heard of “Legal Fiction”! He asked his son (also an attorney), if he had ever heard of “Legal Fiction”? His son returned with the same quote as used in my book—

“In the common law tradition, Legal Fictions are suppositions of fact taken to be true by the courts of law, but which are not necessarily true. They typically are used to evade archaic rules of procedure or to extend the jurisdiction (authority) of the courts in ways that were considered useful, but not strictly authorized by the old rule. Legal Fictions were used by courts prior to the existence of handling offences. In a situation where one person sells stolen property to another person, they can then be accused of handling stolen property. Legal Fiction has been used to declare that: as the first person did not have the power to sell the property to the second person, the second person in possession of stolen property was considered to have also, stolen the property, and was therefore guilty of theft.”

Black’s Law Dictionary, 804 (5th ed. 1979)

Despite the fact that the judge had never heard of the term “Legal Fiction”, he understood how it is used in the legal profession.

How was this term used during the ancient Roman Empire? In understanding this, we can understand how it is still being used today and you in particular, may have actually benefited from it or maybe you still will, some time in the future?

Remember Julius Caesar? He was a descendent of someone from his family name of Caesar that was supposedly born as a half-god. You know where one of the gods has a relationship with a mortal woman and produced a child together. This child was not born naturally, it had to be literally cut out of his mother which is where the words a “caesarian” or “C-section”, come from to deliver a baby for the life of both the mother and child (if possible), when there is no other way!

Well, Julius Caesar (Gaius Julius Caesar), became “dictator of Rome.” He had one child that died later in her life (Julia), and many believe he had a son with Cleopatra, the Queen of Egypt. But for whatever reason, he had no immediate, acceptable or legal biological offspring (usually the first-born son), as an heir.

So he chose his grandnephew. It is a good thing he did because, we recently just left the Ides of March, March 15, when Julius Caesar was assassinated in 44 BC. Oh, and one of the conspirators that killed him, was named as his second heir, in case his first choice (his grandnephew), was already dead at the time his will was to be executed.

This second choice of Caesar, also one of those that conspired to kill him in short was named Brutus. True or not as William Shakespeare said Julius Ceasar's last words were in Latin, "Et tu Brute" or You too Brutus?!" Why was Julius Caesar killed? One big reason was that Caesar proposed to the Senate that he be made, "dictator for life"! I guess they did not like that too much? ☺

But after the death of Julius Caesar, the Senate deified him, making him a god. His grandnephew—heir to the throne, inherited his name, title and wealth. His grandnephew was Gaius Octavius became sole heir at age 18 (hence the name Octavian).

After the deification of Gaius Julius Caesar, Octavian, as the son of Caesar, assumed the title of Divi Filius (Latin) "son of the Divine." His full name became Gaius Octavius Julius Caesar Divi Filius ("son of the Divine." I guess they loved long names then? ☺. Historians just called him Octavian so as not to confuse him with another ancestor, also named Octavius.

Oh, but he also had a regal name as emperor of Rome, Imperator Caesar divi filius (son of the divine), Augustus, or just simply, Augustus Caesar.

This Caesar would have reigned during the times of the birth of Jesus Christ. His successor was Tiberius. Caesar Augustus was his stepfather, the second emperor of Rome that reigned during the crucifixion of Jesus Christ and the rise of his followers, "followers of the Way" or later just called, "Christians."

What is interesting about this is first, the first two emperors of Rome were often just referred to as Caesar as well as many that followed. Both of the first two were not the immediate and biological children of their fathers. They were adopted. But still, with these adoptions, they inherited the names, titles, divinity (god-ness), power and wealth, **AS IF**, they were the true children (biologically), of their fathers. Sometimes people were chosen by Caesar to act in his stead and with all the authority of Rome and of Caesar, **AS IF**, these were Caesar himself. They were called from the Latin, 'Legates.' We also derive the words "legacy" and "legal" from those times. Today, "Legal Fiction" still applies when it comes to adoption, **AS IF**, the adopted children were or are, the biological child or children of those adopting them.

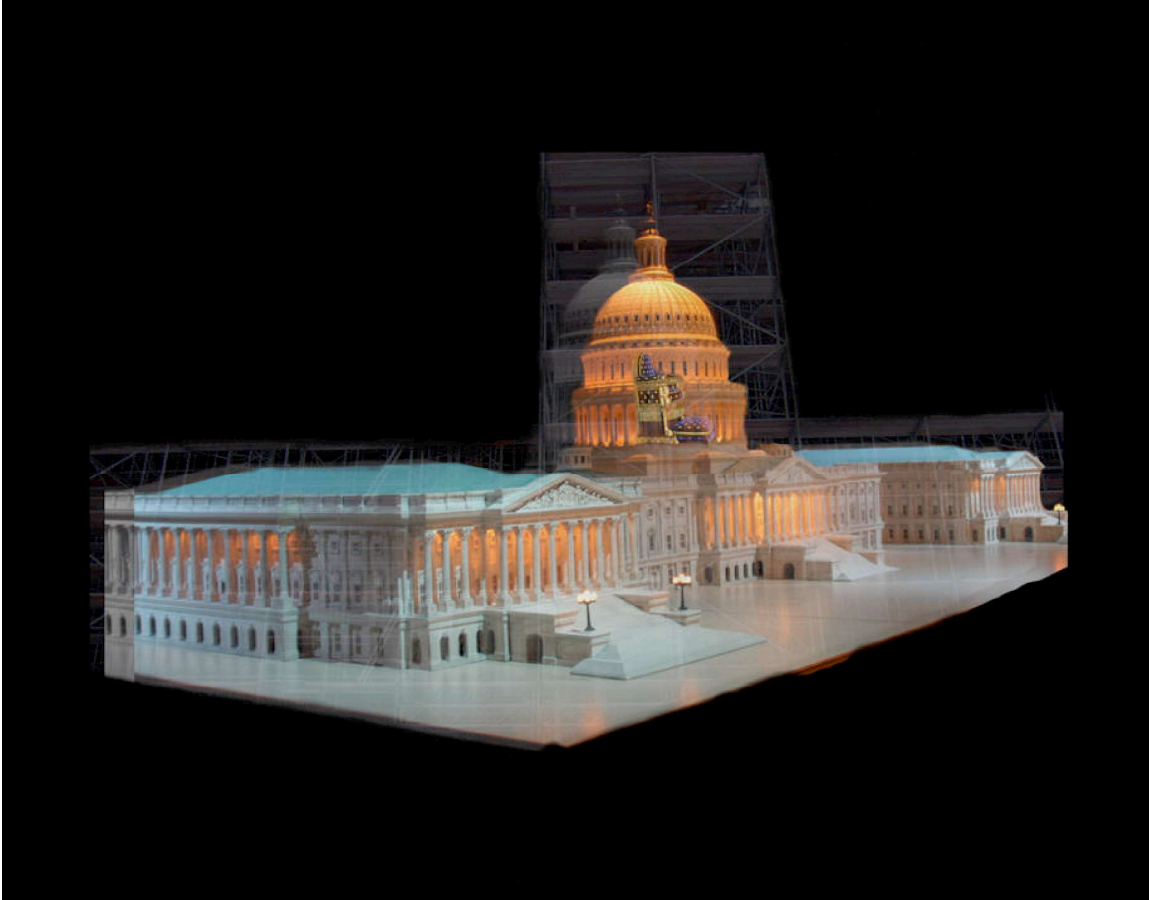
How else is "Legal Fiction used? Have you ever seen a western movie or taken a tour of a movie lot. The camera sees what our eyes see, but it and us may not see that much of it is just 'movie magic', a façade or fake.



This is an example of "Legal Fiction" – movie magic, it's a façade, a fake. It's not real.

According to Black's Law Dictionary, 804 (5th ed. 1979), "The term "Legal Fiction" is not usually used in a pejorative way in spite of the negative connotation of the phrase, and has been characterized as scaffolding around a building under construction." Well that's interesting.

In 2012 to illustrate "legal fiction" I found a picture of a scaled model of the US capital. I blacked out the background or you would see, real people walking around this huge model, but they would look like giants in comparison. Then, I put scaffolding around the building. But there was another building of the capitol in the background. So under the cover of darkness and behind the scaffolding it would look like the capitol was being repaired.



“Legal Fiction” is like scaffolding surrounding a building under construction (or repair)

In all actuality, it was **AS IF**, another building in exact detail was being constructed over it. In the center is a throne. A tyrant or some ruler because of its laws had basically taken our government over AS IF, were real and it looked exactly the same. This is “legal fiction!”

In 2013, our actual capitol was in dire need of repair and much reconstruction. Pictures, scans and engineers began to assess the damage. The structure was mostly made of wrought iron, painted white to all look like hand cut or sculpted marble or stone and had begun to rust, parts decaying, and water had leaked into the dome damaging walls and historical paintings. They needed to repair this or we could have lost it forever. Someone complained about cost over-runs and taking longer than needed and inflated prices. Like who cares, the People will pay for it right? Well these complaints must have put a fire under those working on the project. For at least this time, government which rarely does anything on time and on budget, the Capitol Project was completed on time and under budget and in time for the presidential inauguration, January 20th, 2017.

It cost us the taxpayers over 60 million dollars. 1200+ gallons of paint were used to coat the wrought iron. The entire capitol was completely surrounded by around 55 miles of scaffolding to protect the workers and anyone near the ground if anything fell.

A huge net descended from the interior dome to protect anyone on the ground, in case something fell.

This is a building under construction (reconstruction/repair), and an example of “Legal Fiction.”



Scaffolding around the capitol (for size, notice the two people in the center)

I will give some links to more information, videos and pictures about this capitol repair and reconstruction project. You might find it interesting as I did?

Capitol Restoration 2013-2016

<https://youtu.be/azMdEHP-FL0> – YouTube video

<https://www.aoc.gov/what-we-do/projects/dome-restoration-project>

<https://www.insider.com/capitol-building-renovation-washington-dc-photos-2020-8#the-last-large-scale-restoration-of-the-capitol-was-completed-in-2016-19>

<https://www.theatlantic.com/national/archive/2014/01/photos-inside-us-capitol-dome-renovations/356655/>

<https://wtop.com/dc/2016/08/photos-restoring-capitol-dome-1960s-glory/>

Continuing on, Once upon a time in the US, there was a young man that came with his parents to the US from France.

We owe much to the French. They helped us win our freedom from England (Great Britain). Many French soldiers fought independently or alongside of our Continental soldiers and their Navy blocked, the British from escaping, forcing them to surrender at Yorktown. And the French gave us the Statue of Liberty.

Well, this young man along with his mother and father came to America. His father died and his mother returned to France. John stayed and by the time he was 21, he became a US citizen. He wanted to become a lawyer and studied and became one. Then he started something entirely new. He wrote a first time ever, special legal dictionary. It was unique in the entire world, as it was based on our laws and our Constitution.

John settled in the Philadelphia, PA area until his death. He published three editions of his Law Dictionary in twelve years, the first in 1839. He was preparing a fourth at the time of his death in 1851. The 6th Edition was revised and published in 1856. Other well-known legal scholars contributed to its several revisions. By the year 1886, there had been fifteen editions. His Legal dictionary was known and often referenced during the so-called American Civil War. Abraham Lincoln knew of his work. The attorney, Fredrick Aiken for Mary Surratt, referenced this work by his last name, in arguments and the closing argument, defending his client on trial for conspiracy to assassinate President, Abraham Lincoln.

By the way, I suppose John was a popular name. Three others with the same last name were all related and had the first name of John. One of them also settled in Philly. His son the II, settled in New York as did his son, John III. Guess whom John III was the father to? Jacqueline Bouvier, do you remember her? She married and later became First Lady to the President of the United States, John F. Kennedy. “Jackie”, as she was called by her father John Jack Black Bouvier III, was instrumental in developing the position of curator for the White House (the People’s House). There had never been one before. Presidents would come and go and would often leave office, taking furniture and pieces with them. “Jackie” petitioned Congress to write a law, preventing this from happening ever again, in the future. The legislation was written; passed both houses and it was signed into law.

First Lady Jacqueline (or Jackie), Bouvier Kennedy, remodeled the White House. She used her position, private government funding to buy actual pieces taken from the White House from private collections. I guess some of the former presidents had no interest in keeping historical “treasures” but just to sell them and make a buck? But “Jackie” did her best to re-acquire originals or she contracted furniture makers and specialists to make exact replicas, from old photographs or from literature describing the pieces, color schemes, paintings, furniture, plates, silverware and even curtains among many other items. And of course she re-planted the famous ‘Rose Garden’ and it is still named after her to this day.

Was any of Jacqueline Bouvier's family related to the John Bouvier that wrote the legal dictionary? I do not know, but it is a French name and the ancestors came from France or settled in the United States.

Well, back to the other Frenchman, the other John Bouvier, who wrote the Legal Dictionary and about, "Legal Fiction". The following maxim (a short, pithy statement expressing a general truth or rule of conduct), appears in his dictionary as it compares to "Legal Fiction".

"Fictions arise from the law, and not law from fictions."

Unknown origin

"FICTION OF LAW (Legal Fiction). The assumption that a certain thing is true, and which gives to a person or thing, a quality which is not natural to it, and establishes, consequently, a certain disposition, which, without the fiction, would be repugnant to reason and to truth. It is an order of things which does not exist, but which the law prescribe; or authorizes it differs from presumption, because it establishes as true, something which is false; whereas presumption supplies the proof of something true."

Dalloz, Dict. h. t. See 1 Toull. 171, n. 203; 2 Toull. 217, n. 203; 11 Toull. 11, n. 10, note 2; Ferguson, Moral Philosophy, part 5, c. 10, s. 3 Burgess on Insolvency, 139, 140; Report of the Revisers of the Civil Code of Pennsylvania, March 1, 1832, p. 8"

Let us take a look at the opening of this 6th edition and some of its preface.

A LAW DICTIONARY
ADAPTED TO THE CONSTITUTION AND LAWS OF
THE UNITED STATES OF AMERICA
AND OF THE SEVERAL STATES OF THE AMERICAN UNION
With References to the Civil and Other Systems of Foreign Law
By John Bouvier, SIXTH EDITION REVISED, IMPROVED, AND GREATLY
ENLARGED. VOLUME I. and II 1856

ADVERTISEMENT
TO THE FOURTH EDITION

From the opening of John Bouvier's Legal Dictionary, 6th edition

"Since the publication of the last edition of this work, its author, sincerely devoted to the advancement of his profession, has given to the world his Institutes of American Law, in 4 vols. Svo. Always endeavoring to render his Dictionary as perfect as possible, he was constantly revising it; and whenever he met with an article which he had omitted, he immediately prepared it for a new edition. After the completion of his Institutes, in September last, laboring to severely, he fell a victim to his zeal, and died on the 18th of November, 1851, at the age of sixty-four."

From the opening of John Bouvier's Legal Dictionary, 6th edition

"FICTION OF LAW. The assumption that a certain thing is true, and which gives to a person or thing, a quality which is not natural to it, and establishes, consequently, a certain disposition, which, without the fiction, would be repugnant to reason and to truth. It is an order of things which does not exist, but which the law prescribe; or authorizes it differs from presumption, because it establishes as true, something which is false; whereas presumption supplies the proof of something true." Dalloz, Dict. h. t. See 1 Toull. 171, n. 203; 2 Toull. 217, n. 203; 11 Toull. 11, n. 10, note 2; Ferguson, Moral Philosophy, part 5, c. 10, s. 3 Burgess on Insolvency, 139, 140; Report of the Revisers of the Civil Code of Pennsylvania, March 1, 1832, p. 8."

Excerpt from Bouvier's Law Dictionary 6th Edition, 1856

2. The law never feigns what is impossible fictum est id quod factum non est sed fieri potuit. Fiction is like art; it imitates nature, but never disfigures it, it aids truth, but it ought never to destroy it. It may well suppose that what was possible, but which is not, exists; but it will never feign that what was impossible, actually is. D'Aguesseau, Oeuvres, tome iv. page 427, 47e Plaidoyer.

Excerpt from Bouvier's Law Dictionary 6th Edition, 1856

3. Fictions were invented by the Roman praetors*, who, not possessing the power to abrogate the law, were nevertheless willing to derogate from it, under the pretence of doing equity. Fiction is the resource of weakness, which, in order to obtain its object, assumes as a fact, what is known to be contrary to truth: when the legislator desires to accomplish his object, he need not feign, he commands. Fictions of law owe their origin to the legislative usurpations of the bench. 4 Benth. Ev. 300.

****Praetor: Roman magistrate, responsible for the administration of justice.***

"The word praetor is Latin for the man who "goes before the others." If this is taken literally, the title may be derived from the army; if we allow for a figure of speech, it may have been coined to describe a civil official. The word was certainly used to describe the first consuls."

4. It is said that every fiction must be framed according to the rules of law, and that every Legal Fiction must have equity for its object. 10 Co. 42; 10 Price's R. 154; Cowp. 177. ***To prevent, their evil effects, they are not allowed to be carried further than the reasons which introduced them necessarily require.*** 1 Lill. Ab. 610; Hawk. 320; Best on Pres. §20.

Excerpt from Bouvier's Law Dictionary 6th Edition, 1856

5. The law abounds in fictions. That an estate is in abeyance; the doctrine of remitter, by which a party who has been disseised of his freehold, and afterwards acquires a defective title, is remitted to his former good title; that one thing done today, is considered as done, at a preceding time by the doctrine of relation; that, because one thing is proved, another shall be presumed to be true, which is the case in all presumptions; that the heir, executor, and administrator stand by representation, in the place of the deceased are all fictions of law. "Our various introduction of John Doe and Richard Roe," says Mr. Evans, (Poth. On Ob. by Evans, vol. n. p. 43,) "our solemn process upon disseisin [dispossession] by Hugh Hunt; our casually losing and finding a ship (which never was in Europe) in the parish of St. Mary Le Bow, in the ward of Cheap; our trying the validity of a will by an imaginary, wager of five pounds; our imagining and compassing the king's death, by giving information which may defeat an attack upon an enemy's settlement in the antipodes our charge of picking a pocket, or forging a bill with force and arms; of neglecting to repair abridge, against the peace of our lord the king, his crown and dignity are circumstances, which, looked at by themselves, would convey an impression of no very favorable nature, with respect to the wisdom of our jurisprudence." Vide 13 Vin. Ab. 209; Merl. Rep. h. t.; Dane's Ab. Index, h. t.; and Rey, des Inst. de l'Angl. tome 2, p. 219, where he severely cesures (breaks) these fictions as absurd and useless."

Excerpt from Bouvier's Law Dictionary 6th Edition, 1856

In a nutshell, "Legal Fiction" is legal because it proceeds from the law, but it is fiction also, because it does NOT really exist! Where it did or does, it was and is supposed to be limited!

And just like everything else we have looked at, "Legal Fiction" is part of that mathematical axiom (something that is accepted as true)—

"Things = to the same things are = to each other"!

There is just one final part of four things we need to know and understand. In the next time we will discover—

"Government de Facto"

Have a pleasant spring day. I bid you adieu, until episode 5.

Dahni
1 of WE



WE the People button (spring) By Dahni © 2021, all rights reserved

'Call to RESET' ep. 5 March, 2nd, 2021 "*Legal Fiction?*"
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