

# American Organic Law

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## ***Revisions Notes***

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Updates to this release include the following:

- 1) Added a new section titled “From Colonies to Sovereign States.”
- 2) Improved the analysis on Declaration of Independence, which now covers the last half of the document.
- 3) Improved the section titled “Citizens Under the Articles of Confederation”
- 4) Improved the section titled “Art. I:8:17 – Grant of Power to Exercise Exclusive Legislation.” This new and improved write-up presents proof that the States of the United States Union were created under Article I Section 8 Clause 17 and consist exclusively of territory owned by the United States of America.
- 5) Improved the section titled “Citizenship in the United States of America Confederacy.”
- 6) Added the section titled “Constitution versus Statutory citizens of the United States.”
- 7) Rewrote and renamed the section titled “Erroneous Interpretations of the 14<sup>th</sup> Amendment Citizens of the United States.” This updated section proves why it is erroneous to interpret the 14<sup>th</sup> Amendment “citizens of the United States” as being a citizenry which is not domiciled on federal land.
- 8) Added a new section titled “the States, State Constitutions, and State Governments.” This new section includes a detailed analysis of the 1849 Constitution of the State of California. Much of this analysis applies to all of the State Constitutions.



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## ***Preface***

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From November 6, 2008 until July 4, 2014, Dr. Eduardo M. Rivera, of Organic Law Institute, had written and published approximately 750 postings, collectively named “The Works”, which concerned organic law and government in America. The Works is now currently available to his subscribers and his students at his website, [www.OrganicLaws.org](http://www.OrganicLaws.org).

Recently, Dr. Eduardo M. Rivera had also put together a basic and an advanced course on Law and Government that teach the secrets of achieving freedom in America. The basic course teaches the basic truths about American law and government regarding our freedoms which have remained hidden until Ed’s courses became available. The advance course teaches the details needed to apply the basic truths to achieve freedom in America.

The statutes and regulation of a nation must be consistent with its organic laws to be valid law. So studying organic law is a top-to-down approach to learning the law of a nation-State. The four organic laws of the United States of America print out in only 26 pages, versus the hundreds of thousands of pages of the Statutes at Large, U.S. Code, and U.S. Regulations. What is clear is that learning the organic law is a much easier approach to getting the “big-picture” of a nation’s system of law and government.

What follows is a summary of what I learned from reading “The Works”, reading the organic laws of the United States of America, taking Ed’s basic course on Law and Government, doing my own research, and having numerous conversations with Ed. It is felt that the summary contained hereinafter will clarify some of Ed’s material and also greatly simply to process of learning it. The book is organized into two parts: part 1 closely follows the material covered in Ed’s basic course while part 2 goes beyond what Ed teaches in his basic course. It is felt that anyone who takes Ed’ basic course will be interested in the material found in part 2.





## ***Part 1 – The Basics***

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The material contained in part 1 is essentially a reorganization of the material taught in Dr. Rivera's basic course on American Organic Laws and Government, with a few updates.

### **1 Introduction to American Law & Government**

The United States of America is the freest nation/confederacy in the world. Yet, for most Americans, the freedom for which America is well known is extremely elusive. A formal education in law does not teach the basic truths of America's great freedoms. Furthermore, government sponsored propaganda has not only hidden the truth, but has greatly misled Americans in regards to the great freedoms which can be enjoyed if properly educated. The government generated myths about American law and government are now so universally believed that few people question them. One of the biggest government generated myth is that ratification of the Constitution of September 17, 1787 repealed and/or replaced the Articles of Confederation. By learning the Organic Laws of the United States of America, you will be able to prove that the Articles of Confederation is still a live and viable document, complete with the Confederation Congress operating today as the Senate of the United States of America.

Most of what is taught today in the educational institutions about the Constitution is just plain incorrect and leads to incorrect presumptions about the applicability of federal law. The federal government is under no obligation to show Americans where they are mistaken in their understanding of the written law. Americans are on their own when it comes to learning the truth about law and government in America. The teachings of Jesus Christ are simple and direct: know the truth and be set free by it. The wisdom in Christ's teachings is very applicable when it comes to knowledge of law and government in America.

All written law in America must be in accordance to the Organic Laws of the United States of America in order to be valid law. The truth about American law and government can be found in the four Organic Laws of the United States of America. Found in the four Organic Laws of the United States of America is the best available legal and historical description of our true system of government. The organic laws reveal that the federal government has been secretly operating under the Articles of Confederation since the First Congress convened on March 4, 1789.

Contained herein is an analysis of each of the four Organic Laws of the United States of America, presented in chronological order, in addition to an analysis other major events which impacted the formation of those organic laws. From the analysis contained herein, the following items will be shown to be facts.

- 1) There are four Organic Laws which contain the fundamental principles of the United States of America system of governments: the Declaration of Independence, the Articles of Confederation, the Northwest Ordinance of July 13, 1787, and the Constitution of September 17, 1787.
- 2) The Declaration of Independence transformed the 13 united Colonies of America into 13 sovereign and independent States. In addition to declaring the 13 united Colonies free and sovereign States, the Declaration of Independence established that all men are created equal, endowed by the Creator with unalienable rights. It established that governments are created to protect the unalienable rights of

men and that they shall govern only by the consent of the governed. It also established that in the United States of America, the American People are the depository of all political powers.

- 3) The Articles of Confederation created the United States of America common defense alliance and Union of confederated States in which the States retained all internal territorial powers. These confederated States are united by their delegates, now called “Senators,” in the “United States in Congress assembled,” now called the “Senate,” of the United States of America. All international powers of the States were delegated to this single-house Congress.
- 4) After the American Revolution War, the United States of America government acquired proprietary ownership over a vast territory located immediately West of the States, including the Northwest Territory.
- 5) The Northwest Ordinance created the temporary district government of the Northwest Territory and established military/proprietary power of the United States of America government as the basis for all territorial jurisdictions in the United States of America Confederacy. The Northwest Ordinance also conferred concurrent territorial jurisdiction to each of the State governments over any territory located within the States’ exterior borders that was to be owned by the United States of America.
- 6) The Constitution of September 17, 1787 erected a federated State within the exterior borders of each confederated State, consisting of all the territory therein that was purchased by the consent of the State’s legislature. These federated States were united by the State’s Representatives in the Congressional House of Representatives, creating the United States Union of federated States. The two-house Congress of the United States was created as an administrative unit of the United States of America government to legislatively administer the territory owned by or ceded to the United States of America. The Congress of the United States is vested with the power to exercise exclusive legislative over the United States Union of federated States and the District of Columbia, and is also vested with power to legislate over the U.S. Territories.
- 7) The Articles of Confederation was never repealed or replaced and is still valid Organic Law of the United States of America. Therefore, the United States of America confederacy is organized into two different unions of states: the United States of America Union of confederated states, created under the Articles of Confederation, and the United States Union of federated States, created under the Constitution of September 17, 1787. The several State governments are bound by both the terms contained in the Articles of Confederation relative to the Confederated States, and by the terms contained in the Constitution of September 17, 1787 relative to the federated States.
- 8) The term “United States,” in a singular political context, means the United States of America government.
- 9) The term “United States,” in a plural political context, means the several State governments.
- 10) The term “United States,” in a plural geographic context, means the territory of the several confederated States.
- 11) The term “United States,” in a singular geographical context, means the territory owned by or ceded to the United States of America. This is the only geographical meaning for the term “United States” within the Constitution of September 17, 1787, and the territorial scope of “United States” therein is limited to just the federated States of the United States Union and excludes the District of Columbia and the U.S. Territories. However, in the context of foreign sovereignties, the territorial scope of the term “United States” is broader and includes: federated States of the United States Union, the District of Columbia, and the U.S. Territories

- 12) The United States of America government functions in two different capacities.
- 13) Relative to the confederated States, the United States of America government functions as the central government of the Confederacy. As the confederal government, the United States of America exercises all international sovereign powers in representing the confederated States on international issues but does not exercise any sovereign territorial powers concerning the internal affair of the confederated States.
- 14) Relative to the federated States, the United States of America government functions as the central federal government of the United States Union. As the central federal government of the United States, the United States of America government exercises all international sovereign powers in representing the United States on international issues, and exercises some of the sovereign territorial powers in governing the internal affairs of the federated States. The territorial power over the United States is divided between the United States of America government and the several State governments.
- 15) The territorial jurisdiction of the United States of America is limited to the territory owned by or ceded to the United States of America and includes the federated States of the United States Union, the District of Columbia, and the U.S. Territories.
- 16) All Americans are nationals of the United States of America, known as “nationals of the United States” under 8 USC §1101(a)(22), owing allegiance to the United States of America government.
- 17) Only those Americans who are domiciled within the territorial jurisdiction of the United States of America are citizens of the United States of America, known as “citizens of the United States” under 8 USC §1101(a)(22)(A). “Citizens of the United States” are subject to the federal laws of the United States of America.
- 18) Any American who is not domiciled within the territorial jurisdiction of the United States of America is a non-citizen national of the United States of America government, known as “non-citizen nationals of the United States” under 8 USC §1101(a)(22)(B).
- 19) The term “United States,” as used in the 14<sup>th</sup> Amendment in a geographical sense, is limited to the federated States of the United States Union. Under the 14<sup>th</sup> Amendment, those born in the United States, subject to the jurisdiction of the United States of America, are “citizens of the United States” and of the federated State in which they reside.
- 20) Those born in the District of Columbia or in one of the U.S. Territories, except for American Samoa, are “citizens of the United States” at birth per 8 USC §1401(a).
- 21) Each state government exercises only general powers over its confederated State, powers which do not include the power to tax the inhabitants thereof.
- 22) Sovereign power over the internal affairs of a federated State is divided between the United States of America government and the State government. Those territorial sovereign powers which are not claimed by the United States of America government, the State government may claim for itself in its State Constitution and then exercise such powers over its federated State. Each federated State is merely is a geographical subdivision of the United States. Relative to its federated State, a State government functions as an administrator for the United States of America in administering the federated State erected within its exterior borders. The territorial jurisdiction of each State government is the federated State located within the exterior borders of its confederated State. In each federated State, the State Constitution and State laws made in pursuance thereof is the law. But

the Constitution of September 17, 1787 and the federal laws of the United States of America is the supreme law of the land, where land is the United States Union.

- 23) Within each confederated State, there are two classes of citizens: the citizens the confederated State and the citizens of the United States.
- 24) Those people born in a confederated State are nationals of their State government. Nationals of a confederated State owe double allegiance: to their State government and to the United States of America government. Allegiance to the United States of America is secondary, being derived from having allegiance to their State government and the fact that their State is a member of the United States of America Union of confederated States.
- 25) A national of a confederated State who is domiciled in their State is a citizen of their confederated State. Since at least the ratification of the 14<sup>th</sup> Amendment, all State Constitutions were amended so that only “citizens of the United States” have the right to vote; citizens of the confederated States can no longer vote for representatives in their State legislative assembly. Without representation in their State legislative assembly, neither the “free inhabitants” nor the “citizens of the confederated States” are able to give their consent to be governed. Hence, neither “free inhabitants” nor “citizens of a confederated State” are taxed or regulated by their State laws. Instead, “free inhabitants” and “citizens of a confederated State” are governed by God’s laws, aka English common-law.
- 26) Under the 14<sup>th</sup> Amendment, all persons born or naturalized in the United States, subject to the jurisdiction thereof, are “citizen of the United States” and of the federated State in which they are domiciled. But a citizen of a federated State is secondary, being derived from being a “citizen of the United States” and place of domicile. A citizen of a federated State has single allegiance to only the United States of America government. Since such a “citizen of the United States” has representation in both the Congressional House of Representatives and in the State’s legislative assembly, they are subject to both the State and federal Laws.
- 27) Though the Constitution of September 17, 1787 has been ratified by the several States, it has never been adopted by any government officers. Adoption by an officer, as required by the Constitution of September 17, 1787, is performed by subscribing the Article VI Clause 3 oath to bind the officer “to support this Constitution,” the Constitution of September 17, 1787. Instead, all government officers have taken an alternative non-binding oath to an alternative unwritten Constitution, the “Constitution of the United States.” Under the ratified but un-adopted Constitution of September 17, 1787, there is no constitutional limited government.
- 28) Because there is no constitutional limited government, the government officials have a license to not tell the truth about the limited territorial jurisdiction of the United States of America and are not obligated to obey the Constitution of September 17, 1787.

The outcome of a ratified but un-adopted Constitution of September 17, 1787 is that the system of governments initially established to protect the unalienable rights of Americans, has morphed into a system of government that destroys those unalienable rights. Systematic abuse of Americans for purposes of deceiving them into giving up their rights has become widespread. The three primary tools used to deceive Americans into giving up their freedoms are:

- 1) **Propaganda and Deception** – Propaganda and deception are used to perpetuate the ignorance of Americans regarding their System of governments and their citizenship.

- 2) **Franchise Agreements** - The abusive use of private contracts between the federal government and private Americans, known as franchise agreements. A franchise agreements confers a public right to the private consenting party, making the contract binding. Through the use of franchise agreements, the United States of America acquires “extraterritorial jurisdiction” over any non-citizen national of the United States of America who consents to the agreement.
- 3) **Federal Administrative Court System** - The courts of the federal court system are not established as the Judicial Courts which are established and ordained under Article III. Rather, the federal courts are established as administrative Courts which were legislatively created under the authority of Article IV Section 3 Clause 2 to make rules concerning the territories and other properties owned by the United States of America. The federal administrative Courts are used for the enforcement of franchise agreements and are incapable of dispensing justice.

The good news is that with the proper knowledge, freedom under limited government is available to those Americans who wish to pursue it. Only informed Americans will know the difference between the confederated States of the United States of America Union and the federated States of the United States Union. Only informed Americans will understand that most Americans are neither a citizen nor resident of the United States. Only informed Americans will know how to reclaim their American heritage of being a “non-citizen national of the United States,” and a “free inhabitant” in their confederated State of the United States of America Union. Only informed Americans will know how to avoid becoming a franchisee to protect their freedom.

## **2 The Two Most Basic Systems of Law**

Two kinds of government can be found in the Bible: one based on the Creator’s unwritten Laws and all the others based on the written laws of a State. Every locale, territory or land mass has its exclusive applicable system of law. It is important to always know the applicable system of law in your locale.

### **2.1 Unwritten Law**

God’s Kingdom on earth is the government based on unwritten law. The unwritten law is made by the highest power, our Creator, God; is within the exclusive jurisdiction of the Creator; and is always just. Although God’s Law may be politically incorrect to governments of written law, His Laws are universally applicable. Only God can make the laws for a free people. The pre-existing Laws of our Creator are not written by humans, but can be *discovered* through rational analysis. The discovered Laws of our Creator are described using the languages of man.

#### **2.1.1 The Origin of the Unwritten English Common-Law**

Long before the colonial period of America, the British government had been, and continues to be, a constitutional monarchy. English kings claim authority to rule by a divine right ordained by God. Over the centuries, English kings have conferred their power to govern to a legislative and judicial body called Parliament. What remains of the royal English government power is exercised by English kings as executive governmental power. Britain, like most other ancient societies, had combined both written and unwritten law in the form of one sovereign ruler. Her organic law is a mix of written and unwritten law. The king controlled government with written law. But the English people were relatively free because

their law was the unwritten English common-law, which allowed them to govern themselves in their ordinary affairs. The purpose of the English common-law is to govern behavior by discovering God's Laws that are then enforced by the people themselves sitting in as grand and petit juries.

In the English language, God's Laws are referred to as the English common-law. Alfred the Great, an early English King, is credited with the origin of the English common-law. The English common-law was developed in England while England was ruled by a hereditary monarchy. The monarchy appointed the judges who decided cases according to the law of the case, which in the case of the English common-law, the case was ultimately decided by a common-law jury. There is a common misconception that the royally appointed judges made the English common-law. However, the truth is that the common-law jury made the English common-law; the jury decided the law and the jury decided the facts of the case. In merry old England, the sheriff enforced the English common-law through the "no writ, no right no remedy" idea of civil procedure. The common-law belonged to the people, but to get your jury verdict satisfied you had to have the proper writ issued by one of the king's judges. The sheriff in England got his power not from the people, for they had none to give, but from the sovereign, the king.

English common law was the ordinary civil and criminal law for the commoner. The monarchy, nobility and Church were subject to different sets of laws. The English common-law was so much a part of the English community that it became embedded into the English language. If an act was so detrimental to the well-being of a community, it was designated a crime and given a name. The people made an act a crime by giving it a name. Common-law crimes, like statutory crimes, consist of elements, each of which must be proven in any prosecution. In the common-law, the definition of the word that describes the crime identifies the elements that constitute that common-law offense. The two kinds of thefts, robbery and embezzlement, are easily distinguished by consulting a dictionary. Did the accused use a pen to commit embezzlement, or, was force or fear used to commit a robbery? The meanings of all the words used in the English common-law are found in any unabridged English dictionary. Ed personally recommends the Random House Unabridged Dictionary of the English Language.

### **2.1.2 Unwritten English Common-Law in the United States of America**

America was colonized by Europeans, who wanted to follow the teachings of Jesus Christ, without interference from the State sponsored religions of Europe. During the colonization of America, the English monarchy had a rather strained relationship with Christians, prompting many of them to leave England for the freedom to worship as they wished in America. Christ was crucified for bringing the Good News that it was possible to replace the Roman Empire with the Kingdom of God. Ever since Jesus Christ's teachings, secular governments have tended to view Christianity as a threat to their worldly powers.

The establishment of the United States of America, as a settled county, was initiated by the grants to certain adventurers by the British monarch of charters to establish colonies in America. The English common-law crimes were named long before the first colonists brought the English language and English common-law to America. Law, both written as well as the unwritten English common-law, was brought to America from Great Britain, the mother country. The 13 colonial governments established under the British charters had their authority to govern from the power of the British monarch. As the America colonies were chartered by the British Monarch, the American colonists owed their allegiance to the



English King. The English window tax was brought to America, where it served as a property tax, much like in England. All the territory situated in the thirteen colonies, both privately and publicly owned, was subject to the legislation and taxation of the British Parliament, under the authority of the British monarch.

After the Declaration of Independence and the defeat of the British in America, the only law that survived in America was the English common-law, which is embedded in the English language. The reference in the Declaration of Independence of July 4, 1776 to the “Laws of Nature and of Nature’s God” is a reference to the unwritten Laws of our Creator. English common-law has continued to be the unwritten law in America, even after the Declaration of Independence of July 4, 1776 announced the dissolution of the Political Bands, which once connected America with Great Britain. The English common-law is the law in all of America except in Louisiana and federal territory. For any single place in America, the English common-law and written law are mutually exclusive except for the District of Columbia, where English common-law was law before ratification of the Constitution of September 17, 1787 permitted Congress to make written law for government.

## **2.2 Written Law**

All man made governments must have written law or the claim will be made those governments are without authority and are unjust. Governments are created and administered by written law. Written law always applies to governments and the instruments of government. Only under special circumstances does written law apply to people and those circumstances must be described in the written law. Governments also make written laws for people who consent to be governed. Because written law is reserved for the exclusive use of government, it is written with substantial limitations as to persons and, more importantly, territory to which the law applies to. The territorial jurisdiction of government must always be defined within the written law itself.

Written law is the only law that is taught in the regimented law schools of the world. The big problem with teaching written law exclusively is that it leads to the false assumption by legal scholars that representatives elected by the people can make laws for everyone and everything.

The written laws of a government fall into one of two basic categories: organic law, and all other non-organic written law.

### **2.2.1 Principles of Organic Law**

Organic law, or the fundamental law of a State, is essentially the State’s constitution. In general, a constitution is the system of fundamental principles according to which a nation, State, corporation, or other organization is governed. But, most commonly, the term *constitution* refers to a set of rules and principles that define the nature and extent of government.

Constitutions usually explicitly divide power between various branches of government. The standard model, described by the Baron de Montesquieu, involves three branches of government: executive, legislative and judicial.

Constitutions also establish where sovereignty is located in the State. There are three basic types of distribution of sovereignty according to the degree of centralization of power: unitary, federal, and confederal. The distinction is not absolute but can be generalized as following:

- 1) In a unitary State, sovereignty resides in the State itself, and the constitution determines this. The territory of the State may be divided into regions, but they are not sovereign and are subordinate to the State. Some unitary States (Spain is an example) devolve more and more power to sub-national governments until the State functions in practice much like a federal State.
- 2) A federal State has a central structure with at most a small amount of territory mainly containing the institutions of the federal government, and several regions (called *States*, *provinces*, etc.) which compose the territory of the whole State. Sovereignty is divided between the center and the constituent regions.
- 3) A confederal State comprises again several regions, but the central structure has only limited coordinating power, and sovereignty is located in the regions.

As fundamental law, a constitution is the most basic law of a territory from which all the other laws and rules are hierarchically derived. The organic laws of a State are the source of authority for all other written law of the State. The legitimacy of statutory law is confirmed by its organic law. All legislation and taxation must be traced back to one or more Organic Laws of the State to determine its validity and scope of the tax or law.

In most but not all modern States the constitution has supremacy over ordinary statutory law. In such States, when an official act is unconstitutional, i.e. it is not a power granted to the government by the constitution, that act is *null and void*, and the nullification is *abs initio*, that is, from inception, not from the date of the finding. It was never "law", even though, if it had been a statute or statutory provision, it might have been adopted according to the procedures for adopting legislation. Historically, the remedy for such violations has been petitions for common law writs, such as *quo warranto*.

A political organization is constitutional to the extent that it "*contain[s] institutionalized mechanisms of power control for the protection of the interests and liberties of the citizenry, including those that may be in the minority.*"<sup>1</sup> Most often, the mechanism of power control of a political organization is contained in the constitutional process of amending the constitution. Since Statutory laws must be in accordance to the powers granted in a State's constitution, it is important that the legislature of the State not possess the power to legislatively amend the constitution. Instead, the constitutional process of amending the constitution should be a more involved process that involves citizenry for the protection of the citizenry's interests. The most important function of the organic law is to make limited government possible by erecting written limitations on government within the organic law.

Italian political theorist Giovanni Sartori noted the existence of national constitutions which are a facade for authoritarian sources of power. While such documents may express respect for human rights or establish an independent judiciary, they may never be put into practice (adopted), or if placed into practice, they may be ignored when the government feels threatened.

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<sup>1</sup> Gordon, Scott (1999). *Controlling the State: Constitutionalism from Ancient Athens to Today*. Harvard University Press. p. 4. [ISBN 0-674-16987-5](https://doi.org/10.1017/CBO9780511527801.004), quoted by Wikipedia, "Constitution"



**Random House Webster's Unabridged Dictionary - fundamental law**

The organic law of a State, esp. its constitution.

**Random House Webster's Unabridged Dictionary - organic, adj.**

12. Law. Of or pertaining to the constitutional or essential law or laws of organizing the government of a State.

**Random House Webster's Unabridged Dictionary - constitution, n.**

8. the system of fundamental principles according to which a nation, State, corporation, or the like, is governed.

## **2.2.2    The Organic Laws of the United States of America**

The four Organic Laws of the United States of America are the fundamental laws for the United States of America government. They are presented in Volume 1 of the United States Code as the foundation of “the general and permanent laws of the United States.” The four Organic Laws of the United States of America are: the Declaration of Independence of July 4, 1776, the Articles of Confederation of November 15, 1777, the Northwest Ordinance of July 13, 1787 and the Constitution of September 17, 1787. Due to propaganda, most people incorrectly think that the Articles of Confederation was repealed/replaced upon the establishment of the Constitution of September 17, 1787 and therefore, incorrectly think that the Articles of Confederation is no longer a valid Organic Law of the United States of America. But the appearance of the four Organic laws of the United States of America in Volume one of the official United States Code law book is proof that those Organic Laws, including the Articles of Confederation, are still valid Organic Laws of the United States of America. The Resolution of April 23, 1784 of the Confederation Congress is the only Organic Law of the United States of America which has ever been repealed.

The first two Organic Laws, the Declaration of Independence of July 4, 1776 and Articles of Confederation of November 15, 1777, created the United States of America Union of Confederated States, established that the central government had no legislative powers over the people, and established that the State governments had no legislative power over the “free inhabitants.” The independent confederated States of the United States of America Union consisted of territory not owned by the United States of America. The free inhabitants of the confederated States have the unalienable right to un-limited individual self-government under the Laws of God, aka English common-law.

The last two Organic Laws of the United States of America, the Northwest Ordinance of July 13, 1787 and the Constitution of September 17, 1787 created the United States Union of federated States. The federated States of the United States Union, consisting of territory owned by the United States of America, are states in which persons with a nexus to the United States are taxed and regulated by both the United States of America and the State governments.

All of the above clearly demonstrates how most Americans grossly misunderstand the Constitution of September 17, 1787, as most Americans incorrectly credit the Constitution for the great freedoms of American. Quite the contrary is true! Freedom in American is possible due to the Declaration of Independence and Articles of Confederation, and that freedom can be had only in the confederated States

of the United States of America Union. The Constitution of September 17, 1787 concerns itself with the taxation and regulation of the inhabitants of a different Union, the United States Union. The Constitution is the main deceptive tool used by government to enslave Americans by binding them to its written law.

Governments in America do whatever they can to prevent Americans from learning the four Organic Laws of the United States of America because those organic laws reveal the government's most closely guarded secret: the territorial limitations of all written law in America is limited to the territory owned by or ceded to the United States of America. In addition, very little in the Constitution of September 17, 1787 is clearly spelled out because the intent of the Framers was to deceive all who read that document into erroneously concluding that the Constitution was a grant of legislative power generally over all Americans. All written laws are traps for the unwary and the Constitution of September 17, 1787 is one of the biggest traps in the history of the world.

It is impossible to understand the Constitution of September 17, 1787 without knowing the other three Organic Laws of the United States of America. The Organic Laws can and must be read as a harmonious whole.

The four Organic Laws of the United States of America will be discussed in details hereinafter.

### **2.2.3 Non-Organic Written Laws of a State - Statutes, Code, and Regulation**

Non-organic written laws in many jurisdictions include statutory law, codification of the statutory law, and regulatory law. In parliamentary systems of government, primary legislation and secondary legislation, also referred to as delegated legislation, are two forms of law created respectively by the legislative and executive branches of government.

Primary legislation may consist of statutes that set out broad outlines and principles. Because of the broad wording typically used in statutory law, statutory law must always be read in the context of its organic laws to ascertain the limitations of the statutes. A statute is a formal written enactment of a legislative authority that governs a State, county, or city. Typically, statutes command or prohibit something, or declare policy.

In law, codification is the process of collecting and restating the law of a jurisdiction in certain areas, usually by subject, forming a legal code, i.e. a codex (book) of law. Codification of the statutory laws of a jurisdiction is done to make finding relevant and effective statutes simpler by reorganizing them by subject matter. A code usually has a multivolume index that includes the codified laws, which are published there with amendments integrated into the original law, as currently in force. If you are looking for statutory law on a general subject, the code is the best place to look.

Codification is the defining feature of civil law jurisdictions. Civil law jurisdictions rely, by definition, on codification. A notable early example of codification was the Statutes of Lithuania, in the 16th century. The movement towards codification gained momentum during the Enlightenment, and was implemented in several European countries during the late 18th century. However, it only became widespread after the enactment of the French Napoleonic Code (1804), which has heavily influenced the legal systems of many other countries.

English common-law is not written by men but rather must be discovered by men. Contrary to popular belief, the discovered English common-law has been codified in many jurisdictions and in many areas of law: examples include criminal codes in many jurisdictions, the English Marine Insurance Act 1906 (which codified common law decisions regarding marine insurance), the California Civil Code and the *Consolidated Laws of New York* (New York State).

Regulatory law usually means law promulgated by an executive branch agency under a delegation from a legislature. Upon the delegation of authority by the legislative branch, the executive branch can issue secondary legislation, via its regulatory agencies, specifying substantive regulations and procedural regulations for implementing the legislation. Regulatory laws, promulgated as the result of primary legislation, are needed because of the broad wording used in the statutes. The regulations specify the details needed to implement and enforce the primary statutory laws.

#### **2.2.4 Non-Organic Written Laws of the United States**

The exclusive source of authority for the federal Statutes at Large and the codification of those Statutes, the United States Code, come from the four Organic Laws of the United States of America. Furthermore, the Constitution of September 17, 1787 and the State constitutions which are established pursuant to Article VI Clause 2 of the Constitution of September 17, 1787 are the exclusive sources of authority for all State and local government statutes, code, and regulations.

“Laws of the United States” are laws of the United States of America government. Laws of the United States have a territorial jurisdiction described as the territory owned by or ceded to the United States of America, include the United States Union of federated States, the District of Columbia, and the U.S. Territories. The Laws of the United States are comprised of: primary legislation, known as the Statutes at Large; codification of the Statutes at Large, known as the United States Code; and secondary legislation, known as the Code of Federal Regulations. Each State government has its own State laws and its own territorial jurisdiction, which is the territory located within its exterior borders that is owned by the United States of America. The laws of the State governments are also comprised of primary and secondary legislation as well as a codification of their primary legislation.

##### **2.2.4.1 Statutory Laws of the United States**

In the United States of America, primary legislation is, at the federal level, an Act of Congress. Article I Section 7 of the Constitution of September 17, 1787 describes the process in which a bill becomes statutory law, known as an Act of Congress. A member of Congress proposes a bill. A bill is a document that, if approved, will become law. If both houses of Congress approve the bill, it goes to the President of the United States who has the option to either approve it or veto it. If approved, the former bill becomes new statutory law, an Act of Congress.

In the United States, acts of Congress, such as federal statutes, are published chronologically in the order in which they become law, on an individual basis in official pamphlets called "slip laws." "Slip laws" are then grouped together in chronological order and published in official bound book form called "session laws." The "session law" publication for Federal statutes is called the United States Statutes at Large. Any given act may be only one page, or hundreds of pages, in length. An act may be classified as either a "Public Law" or a "Private Law". By law, the text of the *Statutes at Large*, including all acts which have

not been repealed, is "legal evidence" of the laws enacted by Congress. Slip laws are also competent evidence.

Statutory law can be found in two types of publications: compilations of statutes or codified laws. Both the compilations and the codes have the same wording, but their formats are different. Laws enacted during and after 1957 are cited by public law number. A public law number consists of the number of the U.S. Congress that passed it, followed by a second number that represents the chronological order of its passage. "Pub. L. 88-352" indicates the 352nd law passed by the 88th Congress. Laws enacted before 1957 are cited by the date of enactment of the law and the Statutes at Large chapter number assigned to it. Laws enacted before 1957 may sometimes also be cited by the volume number and page number in which the Statute at Large appears, followed by the Statute at Large chapter number assigned to it. "1 Stat. 189, Ch. 4" refers to the Act of Congress labeled "Chapter 4" located on page 189 of volume 1 of the Statute at Large. After passage, a law is codified, or published according to its subject category. The several State governments, either officially or through private commercial publishers, generally follow the three-part model for the publication of their own statutes: slip law, session law, and codification.

The *Statutes at Large*, however, is not a convenient tool for legal research. It is arranged strictly in chronological order so that statutes addressing related topics may be scattered across many volumes. Statutes often repeal or amend earlier laws and each repeal or amendment of an earlier law remains separate from the affected statute. There is no general index to the repeals or amendments of an affected statute. Therefore, extensive cross-referencing is required to determine what laws are in force at any given time.

#### **2.2.4.2     The United States Code**

The United States Code includes all general and permanent laws of the United States. Temporary laws, such as appropriations acts, and special laws, such as one naming a post office, are not included in the Code. The United States Code is the result of an effort to make finding relevant and effective statutes simpler by reorganizing them by subject matter, and eliminating expired and amended sections. The Code is maintained by the Office of the Law Revision Counsel (LRC) of the U.S. House of Representatives. The LRC determines which statutes in the United States Statutes at Large should be codified, and which existing statutes are affected by amendments or repeals, or have simply expired by their own terms. The LRC updates the Code accordingly.

In general, the term "positive law" connotes statutes, i.e., law that has been enacted by a duly authorized legislature as oppose to natural laws. As used in this sense, positive law is distinguishable from the pre-existing natural laws of our Creator which humans do not write but can only *discover* through their capacity for rational analysis.

Within the context of the Code, the term "positive law" is used in a more limited sense. A positive law title of the Code is a title that has been enacted as a statute. To enact the title, a positive law codification bill is introduced in Congress. The bill repeals existing laws on a certain subject and restates those laws in a new form—a positive law title of the Code.

The titles of the Code that have *not* been enacted through this process are called non-positive law titles. Non-positive law titles of the Code are compilations of statutes. Non-positive law titles, as such, have not

been enacted by Congress, but the laws assembled in the non-positive law titles *have* been enacted by Congress. By law, those titles of the United States Code that have not been enacted into positive law are "*prima facie* evidence" of the law in effect. The United States *Statutes at Large* remains the ultimate authority. If a dispute arises as to the accuracy or completeness of the codification of an un-enacted title, the courts will turn to the language in the United States Statutes at Large.

In contrast, if Congress enacts a particular title of the Code into positive law, the enactment repeals all of the previous Acts of Congress from which that title of the Code was derived. In their place, Congress gives the title of the Code itself the force of law. This process makes that title of the United States Code "legal evidence" of the law in force. Where a title has been enacted into positive law, a court may neither permit nor require proof of the underlying original Acts of Congress. Currently 27 titles out of present 54 titles of the United States Code have been enacted into positive law title of the code.

For the print version of the Code, each title is updated once a year to include all of the laws enacted during the latest session of Congress. Only the printed version of the Code is recognized under law as evidence of the laws of the United States in all courts, tribunals, and public offices of the United States, the States, and the Territories and possessions of the United States ( 1 U.S.C. 204 ). Volume one contains Titles 1 through 5 of the United States Code, preceded by the four Organic Laws of the United States of America. Anyone interesting to confirming the limitation of taxation and legislation in America should buy Volume one of the United States Code from the U.S. Government Printing Office Bookstore. Volume one of the United States Code is all the evidence you will need to confirm the territorial limitations of federal law. Titles 1, 3 and 4 of the United States Code have all been enacted into positive law and all of them can be read in a few hours. Each of these Titles can be used to easily prove federal law is limited to the territory owned by or ceded to the United States of America. Federal law is made for the federal government, federal employees, federal territory and federal citizens. Close examination of all State constitutions will reveal that they only apply to government, to government property and people on government land. In America, all written laws, local, State, and federal, is applicable only in the territory owned by or ceded to the United States of America.

#### **2.2.4.3 Regulatory Laws of the United States**

Regulatory Law deals with procedures established by federal, State, and local administrative agencies of the executive branch of government, as opposed to laws created by the legislature. Congress passes the laws that govern the United States, but Congress has also authorized federal agencies to help put those laws into effect by creating and enforcing regulations. Code and statutory laws often do not include all the details needed to explain how an individual, business, State or local government, or others might follow the law. In order to make the laws work on a day-to-day level, Congress authorizes certain government agencies to create regulations. Regulations set specific requirements about what is legal and what isn't. For example, a regulation issued by EPA to implement the Clean Air Act might explain what levels of a pollutant - such as sulfur dioxide - adequately protect human health and the environment. It would tell industries how much sulfur dioxide they can legally emit into the air, and what the penalty will be if they emit too much. Once the regulation is in effect, EPA then works to help Americans comply with the law and to enforce it.

Rules and regulations that are promulgated by agencies of the Executive Branch of the United States of America federal Government are codified as the Code of Federal Regulations. These regulations are authorized by specific enabling legislation passed by the legislative branch, and generally have the same force as statutory law. The legislative branch passes a law authorizing the creation of a new executive branch agency to implement some specific act of Congress. Generally, the law which creates an agency will delegate powers to the agency to issue and enforce regulations in order to put the subject act of Congress into effect.

Also known as administrative law, regulatory laws can include everything from rulemaking to adjudication and enforcement. In other words, administrative laws often relate to functions akin to all three branches of government (i.e., legislative, judicial, and executive), but all of them flow from agencies that are considered to be a part of the executive branch. The agency enacts regulations and begins to enforce those rules (e.g., through fining or arrests). The enforcement of laws is a traditionally executive function. The agency may also have procedures for hearings, and the results of those proceedings can become precedent on agency policies. These hearings are akin to the trial procedures for the judicial branch.

Any Federal regulation is first published in the *Federal Register* (FR) and is then codified when it is added to the *Code of Federal Regulations* (CFR). The CFR is the official record of all regulations created by the federal government. It is divided into 50 volumes, called titles, each of which focuses on a particular area. The CFR is revised yearly, with one fourth of the volumes updated every three months.

Regulations must be made in accordance with prescribed procedures. The body of law that governs the agency's exercise of rule-making and adjudication powers is called "administrative law," primarily the Administrative Procedure Act. Any of the U.S. Code which lacks implementing regulations may not be enforced against the general public and are limited to public offices, public officers and employees of the Government of the United States.

### **3 From Colonies to Sovereign States**

The Colonial America Time Period covers the time in American history from 1607 to 1776. During this period of time the settlers arrived from Europe looking for religious freedom, land and the opportunity for wealth. Britain had colonized the eastern coast of America to enrich the "mother country."

This section describes the conditions and events which led up to the colonies becoming sovereign States. Much of the content of this section came from [www.LandOfTheBrave.info](http://www.LandOfTheBrave.info).

#### **3.1 Colonial Governments**

The Virginia Colony, founded in 1607, was the first of the original 13 British colonies located on the Atlantic coast of North America. The experiences of the first colonists were extremely difficult, as most of the first colonists perished during the period of history called the Starving Time. Due to the harsh physical conditions and the harsh military like government initially established in the Virginia colony, few people were immigrating to the British colonies in North America. To encourage immigration, the Virginia colonial government was reorganized under the great Charter of 1618 to include self-government



by the colonist. The Virginia colonial government organized under the 1618 Charter included a Crown appointed governor and advisory council, and a two-house legislative assembly. The lower house of the legislative assembly consisted of colonists elected by other colonists and was called the House of Burgesses. Beginning with Virginia, each of the colonies established thereafter had some degree of self-government by the colonist.

Colonial Governments in the colonies represented an extension of the English government. There were three different systems of government used within Colonial Government of the 13 Colonies.

- 1) Royal Colony - A Royal Colony was owned by the king. The government was appointed by the Crown, and carried out the orders and wishes of the Crown as opposed to private or local interests.
- 2) Proprietary Colony - In a Proprietary Colony, an individual, or small elite group, essentially owned the colony, controlling all of the actions and institutions of government, for which they would receive political or financial favors. The governors of the proprietary colonies reported directly to the king.
- 3) Charter Colony - The Charter Colonies were generally self-governed, and their charters were granted to the colonists via a joint-stock company. When created, the British King granted these colonies a charter establishing the rules of government, but he allowed the colonists a great amount of freedom within those rules.

Each system of colonial government was democratic, included self-government by the colonist, and had:

- 1) A Governor who held the executive power in the colony and represented the Crown (England) in the colonial government. The governor was in charge of laws and taxes. He had the authority to appoint various government officials, to convene, or dissolve the legislature, to veto any of its laws. The governor also had command of the militia, which could be used to enforce colonial government policies.
- 2) A Governor's Council, composed of influential and powerful men, advised and supported the Governor and exercised various judicial and administrative powers.
- 3) A two-house legislative Assembly.
  - a) Lower-house – members were elected by the colonist. The right to vote was limited to men who owned land, paid taxes, had an annual income and were members of a Christian church.
  - b) Upper-house, or Council - members were appointed by the governor.

The powers of the legislatures were limited:

- 1) No laws could be passed that was contrary to the laws of England.
- 2) All actions and bills could be vetoed by the governors
- 3) All laws passed by a colonial legislature and approved by a governor, had to be sent to England to be examined by the King and could be vetoed by the King at any time within 3 years (except for Connecticut, Rhode Island, and Maryland who were self-governed Charter Companies)

### **3.2 Colonialism, Mercantilism, and Protectionism in America**

Colonialism can be defined as the exploitation by a strong country of a weaker one. Colonialism is the use of the weaker country's resources to strengthen and enrich the "mother country". The process of Colonialism is achieved by the transfer of people to a new territory who live there as permanent settlers,

or colonists, taking advantage of the resources whilst maintaining political allegiance to their country of origin.

The British had adopted the policy of Mercantilism. A mercantile system is based on the benefits of profitable trading. The flow of raw materials from the colonies profited Great Britain, who turned the raw materials into finished goods which had a higher value. According to mercantilism, the goal of State was the accumulation of precious metals, by exporting the largest possible quantity of finished goods and importing as little as possible, thus establishing a favorable balance of trade. This ensured that gold and silver, and all domestic money, stayed in England.

The policy of mercantilism is often coupled with another economic policy called protectionism in which the ruling government protects their interests in their colonies by restricting trade with any other countries. By applying taxes and quotas, imports to the “mother country” are discouraged and exports from the “mother country” are encouraged. Great Britain adopted the policy of protectionism with Colonial America that was designed to protect British workers and British businesses to the detriment of the colonists. The colonists were not allowed to compete with industries in England or take jobs away. The combined British policies of Colonialism, Mercantilism and Protectionism enabled the British to restrict trade by Americans by enforcing laws such as the Navigation Acts the Hat Act and the Iron Act.

The 1651 Navigation Act was passed in the English Parliament. The reason for the First Navigation Act was to restrict Dutch shipping. The Dutch were the biggest competition to England. The rise of the Dutch carrying trade threatened to drive English shipping from the seas. The 1651 act basically restricted the shipping of goods from the colonies through ships that belong to the people of the British Commonwealth. The 1651 Navigation Act attempted to ensure the monopoly on the British colonial trade for the benefit of British merchants - to the detriment of the Dutch maritime trade.

In 1660, the 1651 Navigation Act was declared void and a Bill for the second 1660 Navigation Act was passed to close the loopholes of the first Act. The 1660 Navigation Act essentially stated that Colonial exports had to be transported in English ships and that all Colonial exports had to first pass through English ports - whether the goods were bound for England or another country in Europe. Effectively, the colonies were prohibited from trading directly with France, Spain and the Netherlands. Heavy duties (taxes) were paid on the trade goods when shipped to England. The money from the taxes went to England, not the colonies from where trade goods originated.

### **3.3 Salutory Neglect Policy**

Many of the American colonists ignored the Navigation Acts and traded directly with France, Spain and the Netherlands, which was very profitable to the colonists. They were able to get away with violating the law due to the long-standing, undocumented, English policy of “Salutory Neglect.”

The policy of “Salutory Neglect” lasted from the early 1600's to the 1760's and avoided strict enforcement of parliamentary laws. British officials in the colonies were basically allowed to turn a “blind eye” to trade violations - they neglected to enforce the law. England adopted their policy of salutary neglect for the following reasons:



- 1) To ensure that the British colonist would remain loyal to the British during the period of expansion in Colonial America. The threat of rebellion in the colonies was a clear concern. The policy and era of Salutary Neglect benefited the colonists, boosting their trade profits and therefore, ensuring the loyalty of the colonists.
- 2) There were no effective enforcement agencies and it was too expensive to send British troops to the American colonies to enforce the Navigation Acts. The policy of Salutary Neglect kept the enforcement costs at a minimum.

The wise policy of "Salutary Neglect" was the prime factor for the booming commercial success of Britain's North American holdings.

### **3.4 Reversing the Salutary Neglect Policy**

The benevolent period of Salutary Neglect all changed after the French and Indian War (aka Seven Years War 1755-1763). Although the French and Indian War was a victory for the British, the war left the British with a massive war debt. To pay their war debt, the British ended their policy of Salutary Neglect in the colonies.

Shortly after the 1763 Treaty of Paris concluded the French and Indian War with Britain, Britain began to reverse their policy of Salutary Neglect. The enforcement of Navigation Acts had begun, tighter controls were implemented, and new taxes were imposed, including the Sugar Act, Stamp Act, Townshend Acts, and the Tea Act. These measures infuriated the American colonists. As a direct result of the Salutary Neglect policy, it had become the colonists' custom and practice to flout the Navigation Acts for years. Then, to add insult to injury, not only were the British enforcing the Navigation Acts, but they were slashing the colonists' profits still further through the new taxes.

### **3.5 The Stamp Act of 1765 & the Stamp Act Congress**

The Stamp Act of 1765 was a British Law, passed by the Parliament of Great Britain on February 17 and schedule to take effect on November 1, 1765. The Stamp Act required all newspapers and various items such as licenses, documents, diplomas and nearly every paper item to be printed on stamped or embossed paper in the American colonies. This meant that the American colonists were obliged to pay a fee on almost every piece of paper used for newspapers and legal documents. The Significance of the Stamp Act was extremely far reaching. Some of the concerns of the colonist included the following:

- 1) The previous policies and taxes had only applied to specific types of trade and commerce in the different areas of the American colonies. The colonists viewed the British regulation of trade as legal.
- 2) The purpose of the taxes levied by the Stamp Act was not to regulate commerce and trade. The purpose of the Stamp Act taxes was to raise revenue to pay for the Seven Year War debts by taxing the colonist rather than taxing the British subjects living in Britain.
- 3) The Stamp tax was introduced by a direct order from Britain without approval of the colonial legislature.
- 4) Penalties and fines for offenses against Stamp Act were harsh. All cases for offenses against the Stamp Act were heard in the Admiralty Courts and decided by judges rather than juries.

- 5) The Bill of Rights Act of 1689 restated certain constitutional requirements of the Crown to seek the consent of the people, as represented in Parliament. Because the colonist had no direct representation in Parliament, any laws that it passed which affected the colonists (such as the Stamp Act) were illegal under the Bill of Rights Act of 1689, and were a denial of the colonist rights as Englishmen.

The Stamp Act Congress, or First Congress of the American Colonies, was a meeting held between October 7 and 25, 1765 in New York City. The men who attended the meeting consisted of representatives from 9 of the British Colonies in North America. Prior to the Stamp Act Congress, there had been several previous colonial congresses, consisting of delegates from different colonial legislative assemblies. But the earlier congress meetings had been summoned by the king's officers to arrange expeditions against the French or to make treaties with the Indians. The Stamp Act Congress was different from the earlier congresses because the Stamp Act Congress was summoned by the colonists themselves to discuss their grievances and to devise a unified protest against new British taxation in general and the Stamp Act of 1765 in particular.

The Stamp Act Congress led to the first concerted effort by the American colonists to resist the British Parliament and the authority of Great Britain. The delegates of the Stamp Act Congress drew up a “Declaration of the Rights and Grievances of the Colonists” in which they made certain declarations and petitioned the King and both houses of Parliament to repeal the Stamp Acts. In this document they declared that:

- 1) The colonists are entitled to all the inherent rights and privileges as the British subjects living in Britain.
- 2) The colonist had no representation in the Parliament legislative assembly. The only representation that the colonists had were in the persons that they had chosen themselves in their respective colonial legislative assemblies. Therefore, only the colonial legislative assemblies had the right to tax the colonies.
- 3) The colonists had the inherent right to trial by jury.
- 4) The restrictions imposed by several late acts of parliament, on the trade of these colonies, would render the colonies unable to purchase imports of British manufactured goods.

The Declaration of Rights and Grievances issued by the Stamp Act Congress was rejected by the British Parliament. Though the Stamp Act was later repealed, its repeal was due to the economic arguments against the Act - not because of pressure from the Stamp Act Congress. Despite the negative reaction to their petition, the meeting of the Stamp Act Congress was important because for the first time the delegates from the nine colonies put aside their local differences and had joined together in a mutual cause. After the Stamp Act Congress, the colonist began to think of themselves as Americans rather than colonist of their own separate Colony.

The two closely related ideas of “from the consent of the governed” and “no taxation without representation” gained wide acceptance by the colonist during the time of the Stamp Act Congress. The consent of the governed is given indirectly through the peoples’ representatives in the legislative assembly. A people who did not have representation in the legislative assembly, did not consent to be governed and therefore, could not be taxed by that legislative assembly. This principle is summarized with the slogan of “no taxation without representation” and was a primary grievance of the American

colonists that would later be expressed in the Declaration of Independence of July 4, 1776. Future taxation in the United States of America would be based in part on representation in the legislative assembly imposing the tax.

### **3.6 Acts and Events Leading to the First Continental Congress**

The First Continental Congress was the result of a sequence of events, each escalating the tension between the colonists and the Crown, beginning with the Townshend Acts of 1767. The Townshend Acts of 1767 were a series of laws which taxed the colonies on British goods imported to the Colonies, including a tax on British tea. Money raised from the new taxes was used to maintain British troops in America and to pay the salaries of some Royal officials who were appointed to work in the American colonies.

In protest to the new import duties, the American colonists refused to buy the British goods and Parliament was forced to repeal all of the duty taxes, except the duty tax on tea. As a result of the boycott by the colonies, the East India Company had literally tons of unsold tea in its London warehouses and was on the verge of bankruptcy. The Tea Act of 1773 was a British Law, passed by the Parliament of Great Britain on May 10, 1773, that allowed the East India Company to sell its large tea surplus below the prices charged by colonial competitors. Ships laden with more than half a million pounds of tea set off for the colonies shortly after the Tea Act was passed.

The December 16, 1773 Boston Tea Party event was a direct protest by colonists in Boston against the Tea Tax that had been imposed by the British government. Boston patriots, dressed as Mohawk Indians, raided three British ships in Boston harbor and dumped 342 containers of tea into the harbor.

The Intolerable Acts of 1774, also called the Restraining Acts and the Coercive Acts, were a series of British Laws, passed by the Parliament of Great Britain, specifically aimed at punishing the Massachusetts colonists for the actions taken in the Boston Tea Party. The Intolerable Acts of 1774 included the following:

- 1) The Boston Port Act tightly closed the port of Boston so the colonists could not bring badly needed products into the port.
- 2) Massachusetts Government Act revoked Massachusetts' charter and brought it under control of the British government. The executive council would no longer be elected, but appointed by the King. Town officials would no longer be elected, but be appointed by the royal governor.
- 3) May 20, 1774 Administration Justice Act gave the power to hold for all trials in Britain for offenses committed in the colonies by royal officials.
- 4) June 2, 1774 Quartering Act compelled the colonists to feed and shelter the soldiers employed to punish them.
- 5) June 22, 1774 Quebec Act was related to Quebec and Ohio. Although it was not directed at punishing the Massachusetts colony for the Boston Tea Party, it was seen as a new model for an authoritarian British colonial administration.

The First Continental Congress was a meeting of 56 delegates from twelve of the thirteen Colonies that met on September 5 to October 26, 1774, at Carpenter' Hall in Philadelphia, Pennsylvania. The purpose of the First Continental Congress was to debate the course of action in response to grievances of the

colonies against Great Britain concerning the Intolerable Acts. The following documents were ratified and signed by the First Continental Congress:

- 1) The Declaration and Resolves (also known as the Declaration of Colonial Rights, or the Declaration of Rights), was a statement adopted by the First Continental Congress on October 14, 1774, in response to the Intolerable Acts. The Declaration outlined colonial objections to the Intolerable Acts, listed a colonial bill of rights, and provided a detailed list of grievances. The Declaration concluded with an outline of Congress's plans: to enter into a boycott of British trade until their grievances were redressed, to publish addresses to the people of Great Britain and British America, and to send a petition to the King.
- 2) The Continental Association, often known simply as the "Association", was a system created by the First Continental Congress in 1774 for implementing a trade boycott with Great Britain by means of non-importation, non-exportation and non-consumption accords. These agreements were to be enforced by a group of committees in each community, which would publish the names of merchants defying the boycott, confiscate contraband and encourage public frugality. Congress hoped that by imposing economic sanctions, they could pressure Great Britain into repealing the intolerable Acts.
- 3) The petition to the King, ratified by Congress on October 25, 1774, listed the grievances that the colonies wished the King to redress and requested that the Intolerable Acts be repealed. The Petition to the King reflected the Colonies' desire to maintain relations with Britain, given that certain demands were met. It showed that the Colonies viewed themselves as loyal to the British monarchy rather than to Parliament.

The First Continental Congress fixed May 10, 1775 as the date on which a second Congress should meet in order to consider the response of their petition.

### **3.7 The Second Continental Congress**

The Second Continental Congress, a convention of 60 delegates from the Thirteen Colonies, started meeting May 10, 1775, in Philadelphia, Pennsylvania. The Second Continental Congress continued to meet until the March 1, 1781 ratification of the Articles of Confederation. Just prior to the Second Continental Congress convening, the following events had occurred:

- 1) The January 1775 British reaction to the petition from the First Continental Congress was to send orders prohibiting another meeting of the Congress and to send additional troops to America.
- 2) In February 1775 Parliament declared that Massachusetts was in a state of rebellion.
- 3) On April 18, 1775, the American War of Independence began with two skirmishes between British troops and the Colonists at Lexington and Concord.

The Congress was to take charge of the war effort. The Congress assumed all the functions of a national government, such as appointing ambassadors, signing treaties, raising armies, appointing generals, obtaining loans from Europe, issuing paper money (called "Continental"), and disbursing funds. On June 14, 1775, the Congress voted to create the Continental Army out of the militia units around Boston and quickly appointed Congressman George Washington of Virginia as commanding general of the Continental Army. The Committee of Secret Correspondence was the committee formed by Congress in 1775 that played a large role in attracting French aid and alliances during the American Revolution.

For the first few months of the struggle, the Patriots had carried on their struggle in an ad-hoc and uncoordinated manner. They had seized arsenals, driven out royal officials, and besieged the British army in the city of Boston. By the spring of 1776 all of the governors of the 13 colonies had either fled or been thrown into prison. The demise of the royal governors effectively put an end to colonial government. On May 15, 1776 Congress advised all the former colonies to form State governments. Legislative assemblies in the formerly British colonies began writing and adopting new constitutions to become sovereign and independent states.

The need for a declaration of independence was intimately linked with the demands of international relations. On June 7, 1776, Richard Henry Lee, a delegate from Virginia, offered a resolution before the Continental Congress declaring the colonies independent. He also urged Congress to resolve “to take the most effectual measures for forming foreign Alliances” and to prepare a plan of confederation for the new independent states. Lee argued that independence was the only way to ensure a foreign alliance, since no European monarchs would deal with America if they remained Britain's colonies. On July 2, 1776, Congress formally adopted the resolution of independence, but only after creating three overlapping committees to draft the Declaration of Independence, a Model Treaty, and the Articles of Confederation.

- On July 4, 1776, Congress approved the Declaration of Independence of the thirteen United States of America and published the declaration soon thereafter. The Declaration announced the states’ entry into the international system, as sovereign independent States.
- The Model Treaty, a template document designed to establish future relationships of amity and commerce with other States, was America’s first diplomatic statement. It adhered to the ideal of free and reciprocal trade.
- After more than a year of debate, on November 15, 1777, Congress approved the Articles of Confederation and the articles were then distributed to the states for ratification. Upon ratification by the States, the Articles of Confederation established “a firm league” among the thirteen free and independent states.

Together, the above three documents constituted an international agreement to set up central institutions for the conduct of vital foreign affairs.

#### **4 Declaration of Independence of July 4, 1776**

The Declaration of Independence of July 4, 1776,<sup>2</sup> the first organic law of the United States of America, was signed by 56 delegates to the second Continental Congress. The declaration stated American’s case for independence due to a bad tyrannical monarchy. In America, after the Declaration of Independence, the governmental powers of King George III and the Parliament were drastically reduced to those Americans still loyal to the English monarchy.

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<sup>2</sup> <https://organiclaws.org/the-declaration-of-independence/>

**Declaration of Independence – paragraph 1:** *“WHEN in the Course of human Events, it becomes necessary for one People to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the Separation.”*

The first paragraph of the Declaration of Independence explains that the purpose of the document is to declare the independence of the former British Colonies and to disclose the causes which impelled them to separate from Britain. The Declaration of Independence acknowledges the existence “*Laws of Nature and of Nature’s God.*” Freedom, as the natural state of being for people, can only be subject to the unwritten Laws of our Creator, known as the “*Laws of Nature and of Nature’s God*” in the Declaration of Independence. Under the “*Laws of Nature and of Nature’s God,*” the American people were entitled to declare their independence.

**Declaration of Independence – paragraph 2:** *“WE hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just powers from the consent of the governed [. . .]”*

The second paragraph of the Declaration of Independence established the following basic principles under which governments in America were to be created:

- 1) “*that all Men are created equal*” means that no person or group of persons would have authority to unilaterally govern other free people.
- 2) “*that they are endowed by their Creator with certain unalienable Rights*” recognizes that freedom and unalienable rights are inherent in men rather than the products of written law.
- 3) “*That to secure these Rights, Governments are instituted among Men*” means that governments are created for the purpose of securing the many unalienable rights of the people.
- 4) Governments “*deriving their just powers from the consent of the governed*” means that the only type of government possible in America is one which governs by the consent of the governed. Since the Bill of Rights of 1689, the “consent of the governed” has been given by direct representation of the people whom are governed in the legislative assembly doing the governing. The “no taxation without representation” slogan adopted by the 1765 Stamp Act Congress is based on the principle of “governing by the consent of the governed.”

The last half of the second paragraph of the Declaration of Independence reveals that the history of King George III of Great-Britain is a history of repeated injuries and usurpations against the States. The second paragraph is followed by a long list of the many oppressive acts suffered by the States under King George III. One of the oppressive acts of the King is that “*He has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation: . . . For imposing Taxes on us without our Consent.*” Following the list of oppressive acts of the King, the Declaration of Independence declares any prince/government that would commit such oppressive acts “*is unfit to be the ruler of a free People.*”



The Declaration of Independence concludes with the representatives of the United States of America, in General Congress, Assembled, declaring, “*in the Name, and by Authority of the good People of these Colonies:*”

- 1) That the United Colonies are **free and independent States**, absolved from all allegiance to the British Crown
- 2) That the United Colonies to have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do.

The above two declarations by the General Congress, Assembled, established that the authority to govern in the United States of America belongs to the People, rather than to Kings. The American People became the depository of political power in the United States of America.

In its most enlarged sense, the word “State” means the whole people united into one body politic.<sup>3</sup> Therefore, the above declaration that the United Colonies were free and independent States was a declaration that people of each State were a free people. As a free people, a legislative assembly would have to contain representatives of the People before such a legislative assembly could govern those people. But the principles of equality of men and unalienable rights would severely limit the powers that the people could delegate to their State government for governing the free people.

Sovereignty is the power to do everything in a State without having to account to another for the laws made and executed, the taxes imposed or treaties made. In America, before the Declaration of Independence of July 4, 1776, King George III was the sovereign. The only sovereignty in America that survived the Declaration of Independence was the sovereign power of the **American People** to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do.

Though the power of self-defense was delegated by the people to their State governments via their State Constitutions, the people also retained the power of self-defense because the power of self-defense is an unalienable right that cannot be completely discharged.

One of the many abuses cited in the Declaration of Independence is that the King “*combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation*”. Within 10 years of gaining their independence,

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<sup>3</sup> **Bouvier’s Law Dictionary (1856), STATE**, government. This word is used in various senses. **In its most enlarged sense**, it signifies a self-sufficient body of persons united together in one community for the defence of their rights, and to do right and justice to foreigners. In this sense, the state means the whole people united into one body politic; (q. v.) and the state, and the people of the state, are equivalent expressions. 1 Pet. Cond. Rep. 37 to 39; 3 Dall. 93; 2 Dall. 425; 2 Wilson’s Lect. 120; Dane’s Appx. §50, p. 63 1 Story, Const. §361.

**In a more limited sense**, the word ‘state’ expresses merely the positive or actual organization of the legislative, or judicial powers; thus the actual government of the state is designated by the name of the state; hence the expression, the state has passed such a law, or prohibited such an act.

**State also means** the section of territory occupied by a state, as the state of Pennsylvania.

Americans would once again find themselves subjected to a foreign Jurisdiction and Acts of pretended Legislation.

## **5 Articles of Confederation of November 15, 1777**

The Articles of Confederation of November 15, 1777<sup>4</sup> is the second organic law of the United States of America. Full ratification of the Articles of Confederation by all 13 original States was completed on March 1, 1781, creating the United States of America common defense alliance and the United States of America central government. In the Articles of Confederation, the United States of America Union is referred to as the “perpetual” Union. The Articles of Confederation is also referred to as the “federal Constitution” in the Journals of the Continental Congress and in some of the U.S. Supreme Court rulings.

The former Colonies, which became free and sovereign States upon the publishing the Declarations of Independence, were informally united under the First and Second Continental Congress. Through full ratification of the Articles of Confederate, the States entered “*into a firm league of friendship with each other, for their common defence*” while the American Revolution War was fought. The Congress of the Confederation, or Confederation Congress, the Congress which united the States under the Articles of Confederation, is officially known as the “United States of America in Congress assembled.” Each State of the United States of America Union elected between two and seven delegates from their State to represent the State in the Confederation Congress.

The Articles of Confederation contained the terms by which 13 States agreed to participate in a centralized form of government, in addition to their self-rule. The States delegated to the United States of America government all international powers, and those national powers that were more efficiently exercised by the central government. The United States of America government had the power to make laws concerning the States as, under Article 13 of the Articles of Confederation, the States were bound to abide by all decision made by the United States in Congress assembled. The laws created by the Confederation Congress took the form of resolutions recorded in the Journals of the Continental Congress, which journals were use since the 1774 First Continental Congress until the 1789 ratification of the Constitution of September 17, 1787.

The States expressly retained their sovereignty, and every power and right that was not expressly delegated by the articles to the United States of America government. No powers over the internal affairs of the States, including legislative powers over the people, were delegated to the United States of America government in the Articles of Confederation. Therefore, the United States of America government became a government of States, but not a government of people. For external international issues, the several States of the United States of America became a single strong political entity, but for all internal domestic issues, each State of the United States of America remained its own separate political entity. As all sovereign powers over internal matters were retained by the States, the United States of America Union was created as a Union of confederated States.

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<sup>4</sup> <https://organiclaws.org/the-articles-of-confederation/>



Provisions to add new States to the United States of America Union were not provided in the Articles of Confederation and would not come into existence until the ordainment of the Northwest Ordinance on July 13, 1787.

No territory was transferred to the Confederacy government under the Articles of Confederation as none was needed to represent the confederated States. No territory was owned by the Confederacy government at the time of full ratification of the Articles of Confederation. France gave recognition to the United States of America as an independent Confederacy on February 6, 1778, before all 13 States had ratified the Articles of Confederation.

The United States of America is not a nation, but rather is a confederacy of independent nations/States, referred to as a “society” by the U.S. Supreme Court.<sup>5</sup> The Articles of Confederation established that in the confederated States, the United States of America government had no legislative powers over the people and that the State governments had no legislative power over the “free inhabitants.”

## 5.1 Free Inhabitants

**Articles of Confederation – Article IV:** *“The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively [ . . . ]”*

The Declaration of Independence established that governments derive their just powers from the consent of the governed. In keeping with the spirit of freedom first expressed in the Declaration of Independence, Article IV of the Articles of Confederation contained a provision in which the inhabitants of the several States could claim to be “free inhabitants.” Each of the original 13 States had its own citizens. However, each member state was required to recognize the “free inhabitants” of their State as possessing all privileges and immunities of free citizens in the several States, without any of the obligations of free citizens. Thus, citizenship in the confederated States became optional.

The principles of “governing by the consent of the governed” and “free inhabitants” allowed each inhabitant of a confederated State to individually choose to either govern himself under the Laws of God as a “free inhabitant,” or to be governed by a State, as a citizen or a resident on government territory. Since the Bill of Rights of 1689, the “consent of the governed” has been given through representation in the legislative assembly doing the governing of the people whom are governed. “Free Inhabitants” were apolitical, not able to participate in the election process for the members of their States legislature assembly, and therefore had no direct representation in that assembly. Without direct representation,

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<sup>5</sup> **Chisholm v. Georgia, 2 Dall. (U.S.) 419 (1793)** – *“From the law of nations little or no illustration of this subject can be expected. By that law the several States and Governments spread over our globe, are considered as forming a society, not a nation.”*

“free inhabitants” did not consent to be governed and hence were not subject to the laws passed by their States legislative assembly. “Free inhabitants” were subject only to the English common-law.

Article IV also permitted the people of a state to take up temporary residence in another State of the Union, enjoying all of the same privileges and subject to the same restrictions as the inhabitants thereof respectively.

Freedom is the result of “Laws of Nature and of Nature’s God,” which has to be unwritten law. Governments may not make laws for free people known as “free inhabitants” as freedom is one of the unalienable rights. The requirement for consent to be governed means that Americans can individually choose to either self-govern themselves, in accordance with the laws of our Creator, aka English common-law, or choose to be governed by a State as a citizen or a resident on government territory. The equality of men and the voluntary nature to be governed by States made legislative power over free Americans impossible.

## **5.2 Citizens Under the Articles of Confederation**

The many unalienable rights that men are endowed with by their Creator, such as life, liberty, and property, are rights which are different from any legal/political rights, such as the right to vote, that may be acquired through a social compact/contract. Those who consent to be governed by a State enter into a social compact, becoming citizens and gaining certain legal/political rights in addition to their natural unalienable rights, but also acquiring certain liabilities. Citizens are subject to the laws passed by their State legislative assembly. Governments may make certain laws for its citizens no matter where they may be found.

During this early stage of the United States of America Confederacy, the United States of America government was a government of States but not of people. The United States of America government had no legislative power over people; hence, it had no citizens. The United States of America government would not have its own citizens subject to the laws of the United States of America until the Northwest Ordinance of July 13, 1787 was ordained.

For those American who consented to be governed by a State, they were citizens of their confederated State. The citizens of a confederated State are civilly associated with each other and subject to the written laws of their State. But the citizens of a confederated State, referred to as “free citizens” in Article IV of the Articles of Confederation, still remain a relatively free people, untaxed by their State government and subject a very limited set of laws.

The Declaration established that the depository of political power in the United States of America is the American people. The Declaration of Independence also established that all men are created equal and endowed by their Creator with certain unalienable Rights. Therefore, individually, each of the people has all the rights of a king but no subjects to rule over except for themselves. Not possessing the power to tax or rule over other free people, the collective people of a confederated State are incapable of delegating such a power to another group of people called government. Those who choose to be a citizen of their confederated State, though subject to the laws of their State, remained a relatively free people because the government possessed no power of taxation over the free citizens. The regulation of the free citizens by the State government is essentially limited to requiring the citizens to conduct themselves, or to use their

property, in such a manner as to not unnecessarily injure another.<sup>6</sup> The many unalienable rights of the free citizens cannot be infringed upon by the State government, for those rights are purely private.<sup>7</sup>

Both “free inhabitants” and citizens of a confederated State had allegiance primarily to their confederated State, and secondarily to the United States of America Confederacy. Allegiance to the United States of America Confederacy was derived from having allegiance to their State and the fact that their State was a member of the United States of America Union.

### 5.3 Detailed Review of the Articles of Confederation

The Articles of Confederation contains an opening paragraph, 13 articles, and a closing paragraph followed by signatures of the delegates of the States which ratified the Articles. Each of these components is briefly discussed below:

- 1) The opening paragraph of the Articles of Confederation announces that the delegates of the States have agreed to certain Articles of Confederation and perpetual Union between the States on November 15 1777. This is the date on which the articles were approved for distribution to the States so that the legislatures of each State could ratify the articles.
- 2) Article I names the Confederacy “The United States of America”: *‘The Style of this confederacy shall be “The United States of America.”’*
- 3) Article II asserts that each State retains all of its sovereignty except for those specific powers expressly delegated to Congress by the Articles of Confederation: *“Each State retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.”*
- 4) Article III clarifies the purpose of the Confederacy is for the common defense of the States and to secure their Liberties, and their mutual and general welfare. Each State is obligated by Article III to assist each other, against all attacks made upon them, or any of them: *“The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.”*
- 5) Article IV entitled the “free inhabitants” to all the privileges and immunities of free citizens in the several States, without any of the obligations of free citizens, securing freedom to the “free

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<sup>6</sup> **Munn. V. Illinois, 94 U.S. 113 (1876)** - “When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. “A Body politic”, as aptly defined in the preamble of the Constitution of Massachusetts, “is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good.” **This does not confer power upon the whole people to control rights which are purely and exclusive private.** Thorpe v. R. & B. Railroad Co., 27 Vt. 143; **but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another.** This is the very essence of government, and has found expression in the maxim sic utere tuo ut alienum non laedes. From this source come the police powers, which, as was said by Mr. Chief Justice Taney in License Cases, 5 How. 583, “are nothing more or less than the powers of government inherent in every sovereignty, . . . that is to say, . . . the power to govern men and things.”

<sup>7</sup> Ibid.

inhabitants” and making State citizenship optional for the American inhabitants of the independent States: “. . . the free inhabitants of each of these States, paupers, vagabonds and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively . . .”

- 6) Article V deals with the issues of the States maintaining their own delegates to Congress. Each State shall be represented by between two and seven delegates appointed annually in a manner directed by the State’s legislature. Each State shall have one vote in determining questions before Congress.
- 7) Article VI restricts the States from having international relations since these related powers were delegated by the States to Congress. The States are explicitly restricted from imposing imposts or duties which may interfere with any stipulations in treaties entered into by Congress.
- 8) Article VII dictates that a State will appoint and maintain all military positions below the rank of colonel for any land-forces that the State may raise for the common defense.
- 9) Article VIII of the Articles of Confederation conceded the power to tax real property to the several States of the perpetual Union, when there is no evidence that the power of direct taxation of people or property survived the removal of a hereditary autocrat. All expenses of the Confederacy were to be apportioned across the States based on the value of all lands & land improvements in each State. The taxes to pay for a State’s apportioned expenses were to be laid and levied by the authority and direction of the State’s legislature within the time agreed by Congress.
- 10) Article IX is a list of the powers and authorities delegated by the States to the United States in Congress Assembled. Most of delegated powers have to do with defense and other international issues. However, some of the delegated powers include power to address domestic national issues that were more efficiently addressed at the national rather than the State level. The power “to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united States under their direction” is a power that would be used to temporarily revise the Articles of Confederation under the ratified but un-adopted Constitution of September 17, 1787. Most of the powers delegated under the Articles of Confederation will be addresses in the sections concerning Article I Section 8 and Article II Section 2 of the Constitution of September 17, 1787.
- 11) Article X authorizes any nine of a “Committee of States” to exercise, in the recess of Congress, the powers of Congress. “The committee of the States, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united States in congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with . . .”
- 12) Article XI clarifies that Canada will be admitted into the Union on equal footing if it accedes to the Confederation.
- 13) Article XII reaffirms that Confederacy will honor all prior debts incurred by Congress in establishing the perpetual Union.
- 14) Article XIII obligates the member States to the Articles of Confederation and to every determination made by the Confederacy. The Union is perpetual and any alterations to the Articles of Confederation will require the assent of every State legislature. “Every State shall abide by the determinations of the united States in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably

*observed by every State, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united States, and be afterwards confirmed by the legislatures of every State.”*

- 15) The closing paragraph of the Articles of Confederation is a plea from the delegates to the delegate’s State legislators to approve the articles and to authorize the delegates to ratify to the Articles of Confederation and perpetual Union on behalf of the States. Below the closing paragraph are the ratifying signatures of the delegates. On July 9, 1778, the closing paragraph was dated and all delegates of the States which had already ratified the articles began to sign the articles. The delegates of Maryland, the 13<sup>th</sup> State to ratify the articles, formally executed their ratifying signatures on March 1, 1781, bringing the Confederacy into full force.

## **5.4 The Meaning of “United States” in the Articles of Confederation**

The term “United States,” as used in the Articles of Confederation, has three different context sensitive meanings. Since a clear understanding the various meanings of the term “United States” is critical to understanding the Organic Laws of the United States of America, this section will review the various meanings found in articles.

In general, the contexts for the term “United States” can be categorized as being either political versus geographical or being singular versus plural. In a political context the term “United States” is a reference to specific government(s), but in a geographic context, the term “United States” is a reference to some specific territory/district. All governments are legal artificial persons that can own and possess things just like people. But a territory/district is not capable of owning or possessing things. Therefore, if in some specified context the term “United States” is being used as a legal person owning or possessing something, then that specific context will be political and the term will be a reference to some particular government.

Since the term “United States” ends with “s”, distinguishing between a singular versus a plural context is a little trickier, requiring additional analysis. In a singular context, the term “United States” is a proper noun and name for some specific entity or territory. But in a plural context, the word “united” is an adjective which describes the common noun “States.” In a plural context, “United States” is a reference to the States united under the Articles of Confederation.

Most occurrences of term “United States” in the Articles of Confederation appears in some phrase that is used to directly refer to the Confederation Congress created by the ratification of the articles. The official name of the Confederation Congress, found in the second sentence of the articles, is the “United States of America in Congress assembled.” The other direct references to the Confederation Congress, found in the articles, include the “United States in Congress assembled,” and “Congress.”

If one ignores all of the phrases which are direct references to the Confederation Congress, then there are three specific context sensitive meanings for the term “United States” found in the Articles of Confederation.

- 1) For a **singular political** context, the term “United States” refers to the United States of America government. In this context, “United States” is an abbreviation for the “United States of America.”



- 2) For a **plural political** context, the term “United States” refers to the governments of the confederated States of the United States of America Union. Collectively, the several State governments are represented by the United States of America government. So if the context is referring to the several State governments collectively, then the term “United States” could also be interpreted as a reference to the United States of America government.
- 3) For a **plural geographical** context, the term “United States” refers to the territory of the confederated States of the United States of America Union.

Listed below is the proper interpretations for each instance of the term “United States” found in the Articles of Confederation which are not direct references to the Confederation Congress:

- 1) **Article 4 Section 1:** “. . . and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the Owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any state, on the property of the united states, or either of them.” The underlined text has **both a singular political and plural political** context and means “the property of the United States of America government, or of any of the governments of the confederated States of the United States of America Union.”
- 2) **Article 4 Section 2:** “If any Person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states . . .” This context is **plural geographical** and refers to the territory of any of the confederated States of the United States of America Union. The adjective “any” preceding “united States” confirms the plural context.
- 3) **Article 5 Section 1:** “For the more convenient management of the general interests of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct . . .” This context is **plural political** and refers to the several State governments, **collectively**. In this context, the term “United States” could also be interpreted as a reference to the United States of America government.
- 4) **Article 5 Section 2:** “. . . nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.” This context is **singular political** and refers to United States of America government.
- 5) **Article 6 Clause 1:** “. . . nor shall any person holding any office of profit or trust under the united states, or any of them” This context is **both singular political and plural political**. The underlined phrase means “the United States of America government or any government of the confederated States of the United States of America Union.”
- 6) **Article 6 Clause 1:** “. . . nor shall the united states in congress assembled, or any of them, grant any title of nobility.” This underlined phrase means “the Confederation Congress or any delegate of the Congress.”
- 7) **Article 9 Section 1:** “. . . what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated” This context is **singular political** and refers to the United States of America government. Naval

forces can be in the services of the Confederacy government but not in the services of a territory/district.

- 8) **Article 9 Section 2:** “. . . but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; . . .” This context is **plural political** and refers the State governments of the confederated States.
- 9) **Article 9 Section 2:** “. . . provided also that no state shall be deprived of territory for the benefit of the united states.” This context is **singular political** and refers to the United States of America government.
- 10) **Article 9 Section 4:** “. . . fixing the standard of weights and measures throughout the united states . . .” This context is **plural geographical** and refers to the territory of the confederated States of the United States of America Union.
- 11) **Article 9 Section 4:** “. . . establishing and regulating post offices from one state to another, throughout all the united states . . .” This context is **plural geographical** and refer to the territory of the confederated States of the United States of America Union. The adjective “all” which precedes the term “united States” confirms that this instance of “united states” has a plural context. Clearly the term “united states” in this context means the confederated States of the United States of America Union, as that was the only type of state at that time.
- 12) **Article 9 Section 4:** “appointing all officers of the land forces, in the service of the united states, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states” Both instances of “united states” have a **singular political** context and mean the United States of America government. Land forces can be in the services of the Confederacy government but not in the services of a territory/district.
- 13) **Article 9 Section 5:** “. . . and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of Money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and clothe, arm and equip them in a soldier like manner, at the expense of the united states . . .” The first instance of the term “united states” appearing in Article 9 Section 5 has a plural political context that is being used collectively and refers the United States of America government. The next 3 instances of “united states” appearing in Article 9 Section 5 have a **singular political** context and mean the United States of America government. The United States of America government can have “general affairs” but a territory/district cannot.
- 14) **Article 9 Section 6:** “. . . nor ascertain the sums and expenses necessary for the defence and welfare of the united states, or any of them,” The underlined text has both a **singular political and plural political** context and means “the United States of America government or any government of the confederated States of the United States of America Union.”



- 15) **Article 9 Section 6:** “. . . nor borrow money on the credit of the united states . . .” This context is **singular political** and means the United States of America government. The Confederacy government can have “credit” but a territory/district cannot.
- 16) **Article 9 Section 7:** “*The congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states.*” This context is **plural geographical** and means the territory of the confederated States of the United States of America Union.
- 17) **Article 11:** “*Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into, and entitled to all the advantages of this union:*” This context has a **plural political context** and is a reference to the several State governments, collectively. In this context the term “United States” could also be interpreted as a reference to the United States of America government.
- 18) **Article 12:** “*All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states, and the public faith are hereby solemnly pledged.*” All 3 instances of “united States” have a **singular political** context and mean the United States of America government.

## 6 **British Defeat and the 3 September 1783 Treaty of Paris**

As King George III of Britain did not accept the independence that the Americans declared in the Declaration of Independence, the Americans had to fight the American Revolution War with Britain to win their independence.

### 6.1 **Formal Recognition of America’s Victory**

**1783 Treaty of Paris – Article I:** “*His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, to be free sovereign and independent states, that he treats with them as such, and for himself, his heirs, and successors, relinquishes all claims to the government, propriety, and territorial rights of the same and every part thereof.*”

The American victory and Lord Cornwallis’s surrender of his troops to George Washington in the 1781 Battle of Yorktown was the final major conflict of the American Revolution. The British defeat in the war was memorialized by the Treaty of Paris of September 3, 1783, officially ending the American Revolution War. At the conclusion of the treaty, the United States of America Confederacy officially became an independent sovereign in the international community of sovereign nations.

The two universal truths of equality of men and God given unalienable rights declared in the Declaration of Independence was a threat to governments which claimed authority to rule by divine right ordained by God. Recognition of those self-evident truths by King George III would lead to the destruction of the power of the nobility, which is based on the superiority of the ruling nobility class, which rules all the

others. These self-evident truths are not recognized by the British Crown until military defeat and then, said recognition is extended only to the thirteen American States.

In the 1783 Treaty of Paris, King George III acknowledged the 13 States to be free, sovereign and independent and relinquished to the Confederacy “*all claims to the government, proprietary, and territorial rights of the same and every part thereof.*” The 1783 Treaty of Paris attempted, but did not convey to the thirteen States, as the Confederacy of the United States of America, the powers of Government, proprietary and territorial rights” claimed by the British Crown over those same States. By the time of the peace treaty was negotiated, the powers claimed of the British Crown had already been terminated by conquest in battle. But, assuming that the powers claimed by the British Crown had survived military defeat and conquest, it still would not be possible for any political State composed of persons equal to each other to receive and then exercise the powers of a king. However the relinquishment by Great Britain to the Confederacy of Her land claims to a vast territory of wilderness located between the western borders of the original States and the Mississippi River, known as the “Western Lands,” would become a significant event.

## **6.2 Proprietary Power**

From the 1783 Treaty, the Confederacy acquired dominion over the vast “Western Lands.” The relinquishment to the Confederacy of proprietary power over the “Western Lands” was a very significant event, not because the area of “Western Lands” was so vast, but because the relinquishment initiated the process by which the United States of America government would eventually become the sole proprietary owner of the “Western Lands.” Proprietary power is that bundle of rights over property which gives property its value. Hence, proprietary power is indistinguishable from legislative power. That is, the owner of property can make all the rules concerning the use of his property. Though the virtue of equality of men declared in Declaration of Independence precluded any person or group of persons from possessing the authority to unilaterally govern other free people, such authority to unilaterally govern others was possible under the proprietary power and military power of the Confederacy. The biggest secret of the United States of America government is that proprietary power, in combination with its military power, is the sole source of all legislative and taxing power in the Confederacy, and that legislative and taxing power is limited to the territory that is owned by or ceded to the United States of America. All current federal laws of the United States of America are based in proprietary/martial power. Martial law will remain the law in the United States until the Confederacy determines otherwise.

## **6.3 Impact of the Removal of Royal English Governmental Power**

Initially after gaining independence, the American politicians in the thirteen States who had previously participated in British government and taxation incorrectly thought that the State governments had an inherent right to make laws for the people and to impose taxes on the people to pay for government. However, all thirteen States were chartered by the English monarchy, so when the English monarchy lost power in America the State governments in all thirteen States lost their royal English governmental power as well. Furthermore, the Declaration of Independence and Articles of Confederation prevented the State governments from legislating and taxing the free inhabitants of the States. Within a short time after the 1783 Treaty of Paris, the American politicians would begin to understand that there was not much of a career to be had in politics, as very few “free inhabitants” would

consent to be governed. Although the States were free and independent, they were also populated by a free people, which would severely limit what constituted State sovereignty over the people.

## **6.4 Conclusion**

The Treaty of Paris was a major event for two reasons: (1) it moved the Confederacy government closer to acquiring sole proprietary power over the Western Lands, which, in combination with its military power, would give the Confederacy government all the power that it would need to legislate and tax the people located on its territory, and, (2) the treaty also marked the official removal of royal English legislation and taxation power in the confederated States of the United States of America Union.

## **7 Creation of the First Public Domain**

The September 3, 1783 Treaty of Paris ended the American Revolution and established the Confederacy's dominion over the land between the Appalachian Mountains and the Mississippi River. The jobs of determining how that land should be governed, and how to resolve the conflicting claims to the Western Lands by seven of the States were some of the first major tasks facing the Confederacy following the American Revolution War. This section describes how the Confederacy came into ownership of the first public domain and describes the conditions under which seven of the original States ceded their Western Land claims to the United States of America.

At the beginning of the American Revolution War, the vast territory west of the Appalachian Mountains, extending up to the Mississippi River, was known by Americans as the "West." Though the West was at that time mostly all unsettled territory, seven of the thirteen original States had, more or less, valid land claims which covered much of the West. The Western Land claims of Georgia, South Carolina, North Carolina, Virginia, Connecticut, and Massachusetts were all based upon their royal colony charters, which extended their western borders westward to the Pacific Ocean, or at least to the Mississippi River. The Western Land claims of New York were somewhat vague and were based on Indian treaties of questionable legality.

### **7.1 Problems created by Western Land Claims of States**

The State's land claims to the Western Lands created controversy and some animosity between the original States.

#### **7.1.1 Borders of Land Claims Overlapped**

Many of the State's land claims to the Western Lands overlapped with each other, which pitted one State's interests against another. Virginia had claims, based on its royal charter, on all territory then known as the Northwest Territory (consisting of what is today Michigan, Ohio, Indiana, Illinois, Wisconsin, and part Minnesota), as well as on what today is known as Kentucky and West Virginia. Apparently, some of the overlap in land claims was due to vague or carelessly written royal charters, as Massachusetts and Connecticut each had claims, also based on their royal charters, on a large horizontal strip of land running across the Northwest Territory which overlapped the claims of Virginia. But significant overlaps in land claims was also caused by Treaties entered with the American Indians by New York, treaties that were made without regards to the land claims already established by other States.

Based on these Indian Treaties, New York had claims to large portion of the Northwest Territory, including territory already claimed by Virginia, Connecticut, and Massachusetts; a large portion of what today is Kentucky and West Virginia, both of which were already claimed by Virginia; and a significant portion of what today is Tennessee, which was already claimed by North Carolina.

### **7.1.2 Western Land Claims Objected to by the “Landless” States**

The so-called six “landless” States of Rhode Island, New Hampshire, Delaware, New Jersey, Pennsylvania and Maryland did not possess royal charters with claims to Western Lands. These landless States had a large economic disadvantage which aroused jealousy and ill-feeling among the landless States. The landless States had no land to sell and would have to tax their citizens a higher tax rate in order to raise the funds to pay off the State’s share of the war debts. It was assumed that the future sales of the western lands would enrich the landed States and possibly allow them to operate without any form of taxation. The landless States feared that their higher tax rates would drive their residents to the landed States, resulting in the landless States dwindling into insignificance.

Not surprisingly, the so-called “landless” States resented the potential benefit that might be enjoyed by the “landed” States. New Jersey, Delaware and, Maryland strongly objected to the State’s western land claims. They argued that the land claims of their sister States were invalid and that they refused to adopt the Articles of Confederation unless the western lands were ceded to Congress to be used to pay for the cost of the Revolutionary War. Finally, after stalling for about a year, both New Jersey and Delaware capitulated and ratified the Articles of Confederation. But Maryland remained adamant about not ratifying unless it received assurance that the other States would agree to yield their land claims to the federal government.

## **7.2 The Federal Solution to Western Lands Controversies**

Three years had already passed since Congress had approval of the Articles of Confederation for ratification. Yet, Maryland still refused to ratify the articles without assurance that the landed States would yield their land claims. The escalating tension between the States over the Western land claims was beginning to threatening the formation of the hoped for Union and it was becoming urgent that the Articles of Confederation be ratified by all States. It was clear that cessions of the Western Lands was critical for the establishing a harmonious union among the States. Listed below is a short timeline highlighting some of the key events related to the cession of the Western lands to the United States of America government.

- On 19 February 1780, New York had moved the “western land” dispute into a new phase by offering both its “western lands” and its jurisdiction over them to the United States in order “to accelerate the federal alliance”.<sup>8</sup> The actual deed of cession was executed by New York on March 1, 1781.<sup>9</sup> Though the offer of its western land claims by New York was a great gesture “to accelerate the federal alliance,” it was not enough to end the impasse between Virginia and Maryland.

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<sup>8</sup> **Journals of the Continental Congress, XVI, 236; Burnett, *Letters*, V, 21–22, Quoted by <http://founders.archives.gov/documents/Madison/01-02-02-0051>**

<sup>9</sup> <http://www.historykat.com/NY/statutes/new-york-cession-western-lands-1781.html>

- On 6 September 1780, Congress, in an attempt to resolve the conflict between the States regarding the western land claims, adopted a resolution that addressed the long-standing and complicated issue of the “western frontiers.”<sup>10 11</sup> The resolution, on one hand, called on the landed States to surrender a liberal portion of their territorial claims, and on the other hand, called on Maryland to authorize its delegates “to subscribe” to the Articles of Confederation.
- On 10 October 1780, Congress adopted a resolution that laid out some definite provisions for lands that might be ceded in pursuance to its 6 September 1780 resolution.<sup>12</sup> The provisions contained in the 10 October 1789 resolution obligated the Confederation Congress regarding any lands to be ceded by States, including:
  - 1) Such lands shall be granted and disposed of for the common benefit of the all the States of the Union.
  - 2) Such lands shall be formed into distinct republican States which shall become members of the Union, and have the same rights of sovereignty, freedom and independence, as the other States.

<sup>10</sup> **Journals of the Continental Congress, XVII, 559–60, 580, 586, 802, 806–8**), quoted by:

<http://founders.archives.gov/documents/Madison/01-02-02-0051>

<sup>11</sup> **Journals of the Continental Congress, Vol. 17, pages 806-807, September 6, 1780,**

<https://memory.loc.gov/ammem/amlaw/lwjclink.html>

*"That having duly considered the several matters to them submitted . . . that it appears more advisable to press upon those States which can remove the embarrassment respecting the western country, a liberal surrender of a portion of their territorial claims, since they cannot be preserved entire without endangering the stability of the general confederacy; . . . Whereupon, Resolved, That copies of the several papers referred to the committee be transmitted, with a copy of the report, to the legislatures of Virginia, North Carolina and Georgia the several States, and that it be earnestly recommended to those States, who have claims to the western country, to pass such laws, and give their delegates in Congress such powers as may effectually remove the only obstacle to a final ratification of the articles of confederation; and that the legislature of Maryland be earnestly requested to authorize their delegates in Congress to subscribe the said articles; and that a copy of the aforementioned remonstrance from the assembly of Virginia and act of the legislature of New York, together with a copy of this report, be transmitted to the said legislature of Maryland."*

<sup>12</sup> **Journals of the Continental Congress, Vol. 18, page 915, October 10, 1780,**

<https://memory.loc.gov/ammem/amlaw/lwjclink.html>

*"Congress resumed the consideration of the report of the committee on the motion made by the delegates of Virginia; and thereupon,*

*Resolved, That the unappropriated lands that may be ceded or relinquished to the United States, by any particular States, pursuant to the recommendation of Congress of the 6 day of September last, shall be granted and disposed of for the common benefit of all the United States that shall be members of the federal union, and be settled and formed into distinct republican States, which shall become members of the federal union, and have the same rights of sovereignty, freedom and independence, as the other States: that each State which shall be so formed shall contain a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit . . . That the said lands shall be granted and settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or any nine or more of them."*

- 3) Such lands shall be granted and settled at such times and under such regulation as shall hereafter be agreed on by Congress.

From the 10 October 1780 resolution, Congress bound itself with the duty to dispose all such lands so ceded by States. There is no provision for Congress to retain any such lands so ceded, but Congress gets to decide the time and the regulation which will be used to dispose such lands so ceded.

- On January 2 1781, in response to the Congressional resolution of 10 October 1780, the Virginia General Assembly resolved that the Commonwealth would yield to the Congress for the Benefit of the said United States All Right Title and Claim that the said Commonwealth hath to the Lands North West of the River Ohio, conditioned on several terms and conditions,<sup>13</sup> including the following two:
  - 1) That the Territory so ceded shall be laid out and formed into States containing a suitable Extent of Territory and shall not be less than One hundred nor more than one hundred and fifty Miles Square, or as near thereto as Circumstances will admit.
  - 2) That the States so formed shall be distinct Republican States and be admitted Members of the Federal Union having the same Rights of Sovereignty Freedom and Independence as the other States.

The terms and conditions contained in Virginia's land cession compact included some of the same conditions that Congress committed itself to in the resolution of 10 October 1780, plus a few other conditions. On 13 September 1783, Congress accepted the terms and conditions of Virginia's cession with the one exception. Congress did not agree to deem and declare void all purchases and deeds from any Indians for any lands within the Northwest Territory, as this was an issue that was more proper to be determined according to the principles of equity and the Constitution.<sup>14</sup>

- On March 1, 1784, the delegates for Virginia in the Congress of the United States of America executed the deed that ceded the Northwest Territory to the United States, completing the cession process<sup>15</sup> The Virginia act of land cession became the basic model for all subsequent State land cession instruments.<sup>16</sup> With this act, Virginia released to the United States *"all right, title and claim, as well of soil as of jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying and being to the northwest of the river Ohio...."* In other words, by these State land cessions the United States of America government became the sole proprietor of and the sovereign government over the ceded lands. And with this clear title, the United States of America is empowered and duty bound to transfer this title, over a reasonable period of time, to non-federal holders.<sup>17</sup> The Virginia land cession compact affirms this federal duty, which Congress imposed upon itself by terms of its resolution of October 10, 1780, as

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<sup>13</sup> **Virginia House of Delegates, 2d of January 1781**, quoted by <http://founders.archives.gov/documents/Jefferson/01-04-02-0481>

<sup>14</sup> **Journals of the Continental Congress, Vol. 25, Pages 559-564, September 13, 1783**, <https://memory.loc.gov/ammem/amlaw/lwjcLink.html>

<sup>15</sup> <http://founders.archives.gov/documents/Jefferson/01-06-02-0419-0003>

<sup>16</sup> "The ORIGIN AND PURPOSE of CESSION OF PROPRIETARY "RIGHT AND TITLE" IN PUBLIC LANDS IN THE TEXT OF STATE ENABLING ACT COMPACTS" by Bill Howell, March 6, 2016, <http://veritasresearchconsulting.com/?p=1505>

<sup>17</sup> Ibid.



follows: “*That all the lands within the territory so ceded ...shall be considered as a common fund for the use and benefit of ... the United States ... and shall be faithfully and bona fide disposed of for that purpose,*”

- On March 1, 1781, Maryland finally ratifies the Articles of Confederation
- On September 3, 1783, via the Treaty of Paris, Britain surrenders to the Confederacy its claim to the Western Lands.
- On November 13, 1784, Massachusetts cedes its claim to a strip of land running across the Northwest Territory. The cession was completed on April 19, 1785.<sup>18</sup>
- On May 20, 1785, Congress enacted a significant land ordinance. The Land Ordinance of 1785 created rules for the orderly survey, sale, and settlement of the public domain, with settlement to occur only on surveyed land. Land ceded by the States and purchased from the Indians was to be divided into six mile square townships created by lines running north and south intersecting at right angles with east-west lines. Townships were to be arranged in north-south rows called ranges. Most townships were to be subdivided into 36 one mile square sections. Each range, township, and section was to be numbered in a regular, consistent sequence.<sup>19</sup>
- On May 11, 1786, Connecticut cedes its claim to a strip of land running across the Northwest Territory. The cession was completed on September 13, 1786, creating the first Public Domain and consisting of the Northwest Territory.<sup>20</sup>
- On March 8, 1787, South Carolina cedes its claim to a narrow strip of land running from its western border to the Mississippi River. The cession was completed August 9, 1787.<sup>21</sup>
- On July 13, 1787, Northwest Ordinance is ordained, organizing the district government for the Northwest Territory and creating the first territorial States from the Public Domain.
- On December 22, 1789, North Carolina cedes its claim to what is now Tennessee. The cession was completed April 2, 1790.<sup>22</sup>
- On April 24, 1802, Georgia ceded its claim to what is now Alabama and Mississippi. The cession was completed on June 16, 1802.<sup>23</sup>

## **8    The Confederation Congress Resolution of April 23, 1784**

By April 23, 1784, Britain had already ceded to the Confederacy the proprietary power she had claimed over the Western Lands and two of the original States had also ceded some or all of their claims to the Western Lands. But five States still had land claims to large portions of the Western Lands, including

<sup>18</sup> <http://www.historykat.com/MA/statutes/massachusetts-cession-western-land-claims-1785.html>

<sup>19</sup> The Official Ohio Lands Book, by Dr. George W. Knepper, page 9, <https://ohioauditor.gov/publications/OhioLandsBook.pdf>

<sup>20</sup> <http://www.historykat.com/CT/statutes/connecticut-cession-western-land-claims-1786.html>

<sup>21</sup> Journals of Congress, August 9, 1787, quoted by: <http://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=033/lljc033.db&recNum=83&itemLink=r?ammem/hlaw:@f>

<sup>22</sup> Statue at Large, 1 Stat. 106 Chap 6, April 2, 1790 – At Act to accept a cession of the claims of the State of North Carolina to a certain district of Western territory.

<sup>23</sup> <http://amindians.tripod.com/18022.htm>



the Northwest Territory. In anticipation of these 5 States ceding their land claims, the Confederation Congress passed the Resolution of April 23, 1784.<sup>24</sup>

The Resolution of April 23, 1784 pertained to all territory already ceded, or to be ceded, by the original States to the Confederacy government, already purchased, or to be purchased from the Indian inhabitants, and offered for sale by Congress (The Western Lands). The Resolution of 23 April 1784 divided the said territory into distinct States and provided a plan, including the corresponding terms and conditions, by which the settlers of a distinct States could form for themselves a permanent State government which, upon becoming sufficiently settled, would be admitted to the Union, on equal footing with the original States. The April 23, 1784 Resolution described two temporary stages of government that a State would go through prior to its admission to the Union, on equal footing with the original States.

In the first stage of government, the settlers on any distinct State were authorized to form for themselves a temporary State government by adopting the Constitution and laws from anyone of the original States, and to erect counties and townships for the election of the members of their State legislature. The State Constitution and laws adopted by a distinct State were to be appropriately altered by the State's legislature. The whole political process of establishing temporary State governments was carried out by the citizens/electors of the "distinct States."

A distinct State would enter its second temporary stage of government upon acquiring 20,000 free inhabitants. Upon obtaining the required inhabitants, Congress would authorize the distinct State to call a convention of representatives to establish for itself a permanent State constitution and government.

The temporary and permanent State governments were to be established on the following principles as their basis:

- a) The "distinct States" were made a permanent part of the "this Confederacy" of the United States of America. "This Confederacy" is the compact being read and contained in the Resolution of April 23, 1784. "This Confederacy" is of the United States of America because the United States of America government is a party to the compact.
- b) The said "distinct States" were to be subject to the Articles of Confederation in the same manner as the original States. This principle made the new "distinct States" parties to the common defense alliance created by the Articles of Confederation. All members of the common defense alliance were subject to several obligations described in the Articles of Confederation, including the obligation to assist each other against attacks made upon them, or any of them.
- c) The said "distinct States" were subject to all acts and ordinances of Congress; hence the "distinct States" were to be dependent States until their admission on equal footing with the original States.
- d) The said "distinct States" were not to interfere with the disposal of the soil by the Confederacy government, or with any regulation of the Confederacy for securing the title in such soil to the bona fide purchasers. Congress became duty bound through the Resolution of 10 October 1780 to dispose of all ceded land. Therefore no "distinct States" were to interfere with the duty of

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<sup>24</sup> <http://organiclaws.org/wp-content/uploads/2014/07/April-23-1784-Resolution1.pdf>

Congress to dispose of ceded land. This provision reserved to Congress the exclusive right to disposed of ceded land.

- e) The said “distinct States” were to pay a part of the federal debts, contracted or to be contracted; to be apportioned on them by Congress. The Confederacy was promising the distinct States independence, but prior to their admission to the Union, on equal footing with the original States, the distinct States were to be dependents of the Confederacy and were required to help pay for the federal debts.
- f) No taxes were to be imposed on lands owned by the Confederacy.
- g) The governments of the said “distinct States” were to be republican.
- h) The lands of non-resident proprietors was not be to be taxed higher than those of residents within any new State, before the admission thereof to a vote by its delegates.

When a said “distinct State” shall have as many free inhabitants as that in the least numerous original State, such State shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original 13 States. This principle implies that upon the admission of a new “distinct State” to the Union on equal footing with the original States, the State would become sovereign and independent in regards to all internal matters, in the same manner that the original States were declared sovereign and independent in Article 2 of the Articles of Confederation.

Upon the establishment of temporary government, but prior to the admission of a State to the Union on equal footing with the original States, a distinct States was authorized to keep a non-voting member in Congress, making the distinct State a part of the confederal government. Though the distinct States were self-governed by the inhabitants, until their admission on equal footing, the State would remain a dependent of the Confederacy and its internal affairs would be subject to all acts or ordinance of Congress.

The preceding articles were formed into a charter of compact and stood as fundamental constitutions between “the thirteen original States,” and each of “the several States” created by the 23 April 1784 resolution.

Although the April 23, 1784 Resolution stood as fundamental organic law, it was repealed in 1787 by the Northwest Ordinance. No permanent State governments were formed in the distinct States; perhaps due to the fact that Confederacy did not have sole proprietary claim to any lands until May 28, 1786, the date on which Connecticut ceded her claims to land located in the Northwest Territory.

## **9 Constitution Convention of May 25, 1787**

A Constitution Convention convened on May 25, 1787 under the authority of the February 21, 1787 Resolution of the Confederation Congress.

### **9.1 Purpose of the Constitution Convention**

The February 21, 1787 Resolution of the Confederation Congress charged the delegates of the Constitutional Convention, which convened on May 25, 1787, with the task of revising the Articles of Confederation so that the revisions would render the Articles of Confederation adequate to meet the

urgent needs of the United States of America government and to preserve the Union. In 1787, the urgent needs of the United States of America government were to acquire a means to raise revenue to pay for the debts incurred in fighting the American Revolution War and to create an efficient administration to govern the territory owned by the United States of America. The free inhabitants of the confederated States could not be taxed but certainly the inhabitants of territory owned by the United States of America could. Together, the Northwest Ordinance of July 13, 1787 and the Constitution of September 17, 1787, created an efficient administration to govern the territory owned by or ceded to the United States of America in which the inhabitants therein could be taxed and regulated.

The delegates to the Constitutional Convention convened in secret in Philadelphia on May 25, 1787. While the delegates to the Constitution Convention were drafting the Constitution of September 17, 1787, the Confederation Congress ordained the Northwest Ordinance of July 13, 1787, which created a temporary district government of the Northwest Territory. Two months after the ordination of the Northwest Ordinance, the Constitution of September 17, 1787 was presented to the Confederation Congress for submission to, and ratification by, the confederated States of the “*perpetual Union*”. Although the Constitution Convention meet in secret, it is obvious that there had been much coordination between the delegates of the convention and the Confederation Congress while both the Constitution and the Northwest Ordinance were being drafted.

One should note that the Constitution of September 17, 1787 is the product of the May 25, 1787 Constitution Convention. Also, the phrase “federal Constitution,” as used in 21 February 1787 resolution of Congress, is a reference to the Articles of Confederation. The Resolution of 21 February 1787 directly reveals that when the Constitution of September 17, 1787 was to be ratified, it would amend the Articles of Confederation to make it sufficient enough to meet the needs of the United States of America government and to preserve the United States of America Union which was created by the articles. So if the establishment of the Constitution would modify the Articles of Confederation in such a way as to meet the needs of the United States of America government and to preserve the Union then it is clear that the establishment of the Constitution of September 17, 1787 could not have possibly repealed or replaced the Articles of Confederation.

**Journals of the Continental Congress, February 21, 1787** - “ . . . Whereas there is provision in the Articles of Confederation and perpetual Union for making alterations therein by the Assent of a Congress of the United States and of the legislatures of the several States; And whereas experience hath evinced that there are defects in the present Confederation, as a mean to remedy which several of the States and particularly the State of New York by express instructions to their delegates in Congress have suggested a Convention for the purposes expressed in the following resolution and such Convention appearing to be the most probable mean of establishing in these States a firm national government.

**Resolved** that in the opinion of Congress it is expedient that on the second Monday in May next **a Convention of delegates** who shall have been appointed by the several States **be held** at Philadelphia **for the sole and express purpose of revising the Articles of Confederation** and reporting to Congress and the several legislatures **such alterations and provisions therein as shall** when agreed to in Congress and confirmed by the States **render the federal Constitution adequate to the exigencies of Government and the preservation of the Union.**”

## **9.2 Why Did the Constitutional Convention Meet in Secret**

Why did the Constitutional Convention delegates meet in secret? What were the delegates of the Constitutional Convention hiding?

Unfortunately, our founding fathers who gave us the Northwest Ordinance and the Constitution of September 17, 1787 were not as benevolent as the ones who gave us the Declaration of Independence and Articles of Confederation. The delegates of the Constitutional Convention were going to create a new central government and Union of federated States, consisting of territory owned by the United States of America, in which the government could tax and regulate the inhabitants of the federated States. As much as the politicians of the day wanted to tax and regulate all Americans, the Declaration of Independence and the Articles of Confederation prohibited the taxation and regulation of the “free inhabitants” of the confederated States. The politicians knew that very few “free inhabitants” would consent to be governed and that the only way the “free inhabitants” could be made to consent was through deception. Therefore, taxation and regulation would be illegitimately expanded into the confederated States to the degree in which the general public’s ignorance of the Organic Laws would allow. George Washington, a known Mason who presided over the Constitutional Convention, and his other Mason buddies, including Alexander Hamilton and Benjamin Franklin, formulated a scheme in which most Americans would be deceived into giving up their freedom. Their scheme involved cold calculating contrivance of a second type of State, States which were united into a separate Union, done primarily to confuse and mislead the public. Most politicians of the day, both in the Confederation Congress and in the State governments, were in on the scheme because it would bring prosperity and power to the politicians. Listed below are some of the points that must have been included in the scheme devised in the Constitutional Convention, which necessitated secrecy to conceal the fraudulent nature their plan.

- 1) Keep secret from the public the fact that the sole source of legislative and taxing power in the Confederacy was derived from proprietary and military power and those powers were limited to territory owned by or ceded to the United States of America. Only with this secret firmly intact could the “founding fathers” pretend to have created a constitutional government with direct sovereign territorial power over all Americans and have the American people believe it.
- 2) During the Constitutional Convention, have the “Federalist Papers” falsely suggest that ratification of the Constitution of September 17, 1787 would repeal and/or replace the Articles of Confederation; thereby, misleading Americans into thinking that they no longer had the option of being a “free inhabitant” under the Articles of Confederation.
- 3) Rename the Confederation Congress from the “United States of America in Congress assembled” to the present day “Senate” so that Americans would incorrectly conclude that there was no longer a Confederation Congress and thereby, incorrectly conclude that the establishment of the Constitution must have repealed the Articles of Confederation.
- 4) Bind the governments of ratifying confederated States into granting proprietary power over territory located within their exterior borders that was to be purchased by the consent of the State legislature. Then erect said purchased territory into federal States of the United States.
- 5) Expand the United States of America government to include an administrative unit, referred to the “Government of the United States,” for administering the federal States of the United States and other territory owned by the United States of America.
- 6) Unite the federal States of the United States by the State’s delegates in the Congressional House of Representatives, thereby becoming the federal States of the United States Union.

- 7) Confer concurrent territorial jurisdiction over the federal States of the United States Union to the State governments, thereby becoming federated States of the United States Union.
- 8) Create the illusion that the Union of federated States replaced the Union of confederated States.
- 9) Make sure no government official would be bound by the Constitution which created the United States Union of federated States. This gave the government official a license to not tell the truth about the limited jurisdiction of the United States of America.

All of the above mentioned points, in addition to government propaganda, created an environment in the federal government that was highly conducive to the abusive destruction of the unalienable rights of those Americans who became confused over their citizenship and the structure of the American system of governments.

## 10 **Northwest Ordinance of July 13, 1787**

On May 28, 1786, upon the completion of the cession by Connecticut of its claim to a large strip of land running across the Northwest Territory, the United States of America became the sole proprietor owner of the Northwest Territory. Then on July 13, 1787, while the secret Constitutional Convention was still meeting, the Confederation Congress, through an exercise of its military and proprietary powers, ordained the Northwest Ordinance of 13 July 1787<sup>25</sup> as the third Organic Law of the United States of America. As a result of the Northwest Ordinance, the Northwest Territory became the first federal territory organized by the United States of America with a government.

Unlike the confederated States, the power being used to govern the Northwest Territory was not a power inherent in and delegated by the people, but came from the proprietary/military power of the United States of America. Proprietary and military powers were the only two powers that the United States of America government possessed over people inhabiting its territory. Proprietary power is the right to make laws concerning the use of one's proprietary property by all others, and includes the right to protect and defend ones proprietary property. Military power, which includes the inherent right of taxation and law making in occupied territory, provides a convenient means for enforcing the laws in order to protect and defend one's proprietary property. The United States of America government, being the proprietary owner of the Northwest Territory and having been delegated military power by the people through their States, had both powers at its disposal for making and enforcing laws in territory owned by or ceded to the United States of America. But one drawback to the use of proprietary and military power as the basis for taxation and regulation of people is that the territorial jurisdiction of the United States of America government would be limited to the territory owned by or ceded to the United States of America.

### 10.1 **Creation of a Temporary District Government**

**Northwest Ordinance – Section 1:** *“An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio - Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district, subject,*

<sup>25</sup> <https://organiclaws.org/the-northwest-ordinance/>

*however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.”*

Per Section 1 of the Northwest Ordinance, “**the said territory**” was the territory owned by the United States of America located North-West of the River Ohio. The expressed purpose of the Northwest Ordinance was for the creation of a temporary government for “the said territory.” For purposes of the temporary government, “the said territory” was to be one district, subject to be divided into two districts as future circumstances may make it expedient.

The authority of the United States of America government to form an administrative unit within itself for the purpose of managing the Northwest Territory came from the Article IX power of the Articles of Confederation to appoint such other committees and civil officers to be overseen by the Confederation Congress: “*The united States in congress assembled shall have authority . . . to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united States under their direction*”. The Northwest Territory was territory owned by the United States of America and therefore, it was the responsibility of the Confederation Congress to manage it. Management of the Northwest Territory, under the direction of the Confederation Congress, would be accomplished through the military district government created under the Northwest Ordinance. The Congress would direct the district government through the appointment of its officers and through their power to revoke the commission of any of appointed officer whose performance was not satisfactory.

#### **10.1.1 First Stage of the Temporary District Government**

During the first stage of the temporary district government, the territorial States formed in “the said territory” had no role in governing the district or themselves. The first stage temporary district government for the territory consisted of a Governor, Secretary, and a Court consisting of three judges, all appointed by Congress and all required to reside and own land in the territory. The commissions of Governor and Secretary were in force for fixed terms, unless revoked sooner by Congress, putting them under the control of Congress. The commissions of the three judges continued in force during good behavior, which means they were appointed to lifetime tenure. The initial civil and criminal laws for the district were adopted from the laws of the original States that were best suited for the district, and appropriately altered by the Governor and Judges. As the territorial States were being groomed for admission to the Union on equal footing with the original States, it is only appropriate that the district be seeded with a court of common-law jurisdiction. Under Article 2 of the Northwest Ordinance, the inhabitants were expressly entitled to “*judicial proceedings according to the course of the common law.*”

The Governor was the Commander in Chief of the militia and appointed the commission of all military officers below the rank of General Officers; all General Officers were to be appointed and commissioned by Congress. The Governor appointed the magistrates and other civil officers in each county/township for the preservation of peace and good order. As the Commander in Chief of the militia, the Governor possessed all military power needed to enforce the laws of the district. All police power in the Northwest Territory was derived from the military power possessed by the Governor.

The governor was responsible to lay out the counties/townships in parts of the district, as the Indian titles to any such parts were extinguished.



### **10.1.2 Second Stage of Temporary District Government**

The temporary district government would enter its second stage government after the district acquired 5,000 or more free male inhabitants of full age of majority. During this stage, a two-house general assembly was formed as the legislature body for the district. The two-house general assembly consisted of the Governor, the house of representatives, and the legislative council. The citizens of the territorial States formed in “the said territory” would start to participate in the governing of the district by electing a representative from their county to represent them in the district legislation process, making the district government a representative government.

#### **10.1.2.1 Citizens Under the Northwest Ordinance**

**Northwest Ordinance – Section 9:** *“So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect a representative from their counties or townships to represent them in the general assembly: Provided, That, for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty five; after which, the number and proportion of representatives shall be regulated by the legislature: Provided, That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; Provided, also, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative”.*

Representatives of the house of representatives were apportioned across the counties in the district according to the number of the male adult inhabitants in the counties and were elected to a two year term. Representatives were required to be either a 3-year resident of the district, or a 3-year citizen of one of the United States and a resident of the district. The term “United States,” as used in the phrase “citizen of one of the United States” has a plural context and, just like in the Articles of Confederation, is a reference to the confederated States united under the Articles of Confederation. Therefore, the citizenship requisite for a representative was to be citizen of one of the confederated States of the United States of America Union. These States already had delegates in the “United States of America in Congress assemble” and therefore, were united.

The requisites for an elector of a representative were to be a male land owner who was either a 2-year resident of the district, or “a citizen of one of the States” and a resident of the district. The citizenship requisite of an elector of a representative is distinguished from the citizenship requisite of a “representative,” which must mean that it was for a citizen of the other kind of State in the Confederacy. The only other kind of State in the Confederacy, upon the ordainment of the Northwest Ordinance, was the territorial type of States formed under Article 5 of the Northwest Ordinance. Therefore, the citizenship requisite for an elector of a representative must have been to be a citizen of one of the territorial States created under Article 5 of the Northwest Ordinance.



A phrase in the last clause of Article 4 of the Northwest Ordinance confirms the above conclusion. The phrase reads: *"the citizens of the United States, and those of any other States that may be admitted into the confederacy"*. The territorial States that were created in Article 5 of the Northwest Ordinance were made parties to the United States of America common defense Confederacy/alliance in Article 4, but they were not yet admitted, by its delegates, into the Confederation Congress, on equal footing with the original States. These territorial States were being groomed for admission and, upon acquiring 60,000 inhabitants, could be admitted. These territorial States had their own citizens. A citizen of a territorial State met the citizenship requisite for an elector of a representative.

Notice that the above quoted phrase from Article 4 of the Northwest Ordinance also contains the term "citizens of the United States." This term is the plural form for the phrase "a citizen of one of the United States" and simply is a reference to citizens of the confederated States, States which were already united under the Articles of Confederation and therefore members of the United States of America Union." The designator of "citizens of the United States" distinguishes citizens of States that were already united from citizens of States that may be united. The term "citizen of the United States," as used in Article 4, is a status derived from being a citizen of one of the confederated States. *"It had been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the Union."*<sup>26</sup> Though the previous quoted text is taken from a U.S. Supreme Court case concerning the 14<sup>th</sup> Amendment, it is referring to the meaning of "citizen of the United States" that existed prior to the ratification of the Constitution of September 17, 1787, not to the meaning that currently exists.

Upon the ordainment of the Northwest Ordinance, there were only two types of citizens in the United States of America Confederacy:

- 1) A citizen of one of the confederated States that were already members of the United States of America Union. The allegiance of a citizen of one of the confederated States was primarily to their State government, and secondly to the United States of America government. A citizen of one of the confederated States was domiciled in their confederated State and therefore subject to the laws of their State government. These citizens were annotated in the Northwest Ordinance as "a citizen of one of the United States" in a singular context and as "citizens of the United States" in a plural context.
- 2) A citizen of one of the territorial States that were not yet, but could be, admitted, by its delegates into the United States of America in Congress assembled. The territorial States did not have a state government but rather were administered by the temporary district government, which was established as an administrative unit of the United States of America government. Therefore, the

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<sup>26</sup> **Slaughter-House Cases, 83 U.S. (16 Wall.) 36., 21 L.Ed. 394 (1873)** - *"The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship - not only citizenship of the United States, but citizenship of the State. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States, were not citizens. Whether this proposition was sound or not had never been judicially decided."*

allegiance of a citizen of a territorial State was solely to the United States of America government. A citizen of one of the territorial States was domiciled on territory owned by or ceded to the United States of America and therefore, subject to taxation by both the United States of America and the district government. These citizens were annotated in the Northwest Ordinance as “a citizen of one of the States” in a singular context and as “citizens of any other States that may be admitted into the Confederacy” in a plural context. This citizen of a territorial State is what today is called a “citizen of the United States,” a citizenry which owes allegiance to the United States of America and, since domiciled on territory owned by or ceded to the United States or America, is subject to the laws of both the United States of America and a State government.

#### **10.1.2.2 Nomination and Appointment of Members to the District Legislative Counsel**

Upon the election of the representatives, the Governor appointed a time and place for the representatives to meet for the purpose of nominating 10 persons resident in the district. The list of the 10 nominated persons was forwarded to the Congress; five of whom Congress would appoint and commission. The commission of the five appointed Legislative Counsel members remained in force for five years, unless revoked sooner by Congress, placing the members of the Legislative Counsel under the control of Congress.

#### **10.1.2.3 The General Assemble**

Per Section 11 of the Northwest Ordinance, the general assembly, had authority to make laws for the district government: *“And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases, for the good government of the district”*. All bills, having passed by a majority in the house, and a majority in the council were referred to the governor for his assent; the governor’s assent was required before any bill or legislative act would become law. Per Section 8 of the Northwest Ordinance, laws to be made would have full force in all parts of the district: *“For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district”*. Per Section 11 of the Northwest Ordinance, the governor shall have power to convene, prorogue, and dissolve the general assembly, when, in his opinion, it shall be expedient.

The house and council, by joint ballot, also elected a delegate to Confederation Congress with the right to debate but not to vote for the duration of the temporary government. The district government’s seat in the Confederation Congress with the right to debate, but not to vote, made the district government a part of the Confederacy government. The territorial States themselves did not have any delegates in the Confederation Congress, only the district government had a non-voting delegate.

#### **10.1.2.4 An Illusionary Republic**

With the citizens of the territorial States electing a representative from their county to represent them in the legislation process, the Northwest Ordinance creates the appearance that a republic form of government was created in the Northwest Territory. However, if one takes note that the Congress appointed governor had the power to veto any bills which passed by both houses and could even terminate the general assemble elected by the citizens of the territorial States, it becomes clear that the supreme power of the district government did not rest with citizens of the territorial States. Hence, the appearance of a republic form of government in the Northwest Territory was just an illusion that was used

to fabricate the “body politic” that would be used as a basis for the eventual proposed Congress of the United States in Article I Section 1 of the Constitution of September 17, 1787.

**Random House Webster’s Unabridged Dictionary - republic, n.**

1. a State in which the supreme power rests in the body of citizens entitled to vote and is exercised by representatives chosen directly or indirectly by them.

## **10.2 Repeal of Resolution of 23 April 1784 Organic Law**

**Northwest Ordinance – last Section:** *“Be it ordained by the authority aforesaid, That the resolutions of the 23rd of April, 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.”*

The last Section of the Northwest Ordinance clearly repeals the prior Resolution of 23 April 1784. The subject of both the 23 April 1784 Resolution and the Northwest Ordinance is territory owned by the United States of America. If the establishment of the Constitution of September 17, 1787 had repealed/replaced the Articles of Confederation, as many people incorrectly think, then language similar to that contained in the last Section of the Northwest Ordinance would have to have appeared in the Constitution; there is no such language in the Constitution because the Articles of Confederation was never repealed/replaced.

## **10.3 The “Compact” of the Northwest Ordinance**

**Northwest Ordinance - Section 13:** *“And, for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:”*

Section 13 explains the purpose of the compact of the Northwest Ordinance. The essential purposes of the compact described in Section 13 are:

- 1) To fix and establish the principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the territory. One of the major principles established under the Northwest Ordinance is that the proprietary/military power of the United States of America is the basis for all territorial jurisdictions in the United States of America Confederacy.
- 2) To provide for the establishment of States, and permanent governments therein, and for their admission to a share in the federal councils on an equal footing with the original States.

**Northwest Ordinance - Section 14:** *It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original States and the people and States in the said territory and forever remain unalterable, unless by common consent, to wit:”*

Section 14 declares *“That the following six article shall be **“considered”** as articles of compact between the original States, and the people and States in the said territory and forever remain unalterable, unless by common consent,”* which means that the follow six articles were not an actual compact. Neither the people nor the States formed in “the said territory” ever ratified the Northwest Ordinance. The collective original States are represented by the Confederation Congress in the ordainment of the Northwest Ordinance. Section 14 confirms that ordainment of the Northwest Ordinance was an exercise by the Confederation Congress of its military/proprietary power over territory that it owned.

### 10.3.1 Articles 1 and 2

**Northwest Ordinance - Article 1:** *“No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.”*

**Northwest Ordinance - Article 2:** *“The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature [ . . . ]”*

As the parties to the Northwest Ordinance included the inhabitants of “said territory,” it is appropriate that those inhabitants were given certain rights. Article 1 is a grant of religious freedom and Article 2 is a grant of a finite set of legal rights.

### 10.3.2 Article 3

**Northwest Ordinance - Article 3:** *“Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. [ . . . ]”*

The existence of Article 3 of the Northwest Ordinance is evident in the State Constitutions of all of the States that were admitted to the Union under Article 5 of the Northwest Ordinance. Due to the presence of Article 3, large federal grants of land were made to the States during their admission process for public education. The establishment of a government control public education system was important so that very few free inhabitants would be able to learn about the true nature of the organic laws and the governments in the United States of America.

### 10.3.3 Article 4

**Northwest Ordinance - Article 4:** *“The said territory, and the States which may be formed therein, shall forever remain a part of this Confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new States, shall never interfere with the primary disposal of the soil by the United*

*States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and, in no case, shall nonresident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.”*

Because of the importance of Article 4, each clause of Article 4 will be addressed individually in the following sub-sections.

#### **10.3.3.1 “This Confederacy” of the United States of America**

*“The said territory, and the States which may be formed therein, shall forever remain a part of this Confederacy of the United States of America.”*

Per Merriam-Webster’s dictionary, a “confederacy” is both a league/compact and the body formed by the States/nations united by a league. “This Confederacy” is the compact being read and contained in the Northwest Ordinance. “This Confederacy” is of the United States of America because the United States of America government is a party to the compact. “This Confederacy” is also the confederal governmental body which ordained the Northwest Ordinance. “The said territory” became “a part” of this United States of America confederal government which ordained the Northwest Ordinance by the inclusion of their one permitted non-voting delegate in the Confederation Congress.

**Merriam-Webster’s 11<sup>th</sup> Collegiate Dictionary – Confederacy: 1:** a league or compact for mutual support or common action : ALLIANCE  
**3 :** the body formed by persons, States, or nations united by a league;

#### **10.3.3.2 Said Territory and States Made Members of the Common Defense Alliance**

*“The said territory, and the States which may be formed therein, shall forever remain . . . subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made;”*

This clause of Article 4 of the Northwest Ordinance made “the said territory,” and States which may be formed therein, parties to the United States of America common defense alliance created by the Articles of Confederation. All members of the common defense alliance were subject to several obligations described in the Articles of Confederation, including the obligation under Article 3 to assist each other against attacks made upon them, or any of them.

Through the February 21, 1787 Resolution of the Confederation Congress, Congress had already charged the delegates of the Constitutional Convention with the task of revising the Articles of Confederation. The said territory, and States which may be formed therein, were also to be subject to whatever revisions to Articles of Confederation that would be made via the ratification of the Constitution of September 17, 1787.

#### **10.3.3.3 Said Territory, and States formed therein, Made Subject to All Acts of Congress**

*“The said territory, and the States which may be formed therein, shall forever remain . . . subject to . . . and to all the acts and ordinances of the United States in Congress assembled, conformable thereto.”*

Ordinances are local laws. Under this clause of Article 4 of the Northwest Ordinance, the Confederation Congress ordained, through an exercise of its proprietary/military power, that it had the ability to create local laws applicable to “the said territory.” The territorial States formed within “the said territory” were not self-governing free and independent States like the confederated States. Rather, the territorial States were States owned by the federal government, governed by the federal government or the district government, which was a part of the federal government. As a condition of the future admission to the Union, the territorial States would be subject to all acts and ordinances of Congress until their admission.

#### **10.3.3.4 Inhabitants of “the said territory” Subject to Federal and State Taxation**

*“The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled.”*

The Confederation Congress, through an exercise of its proprietary/military power, ordained that the inhabitants in “the said territory” shall be subject to pay a part of the federal debts, which debts shall be apportioned by Congress on the States formed in “the said territory;” and the taxes for paying the federal debt apportioned to a State in “the said territory” shall be laid and levied by the legislatures of the district or districts, or new States, as in the original States.

This clause established the power of the Confederation Congress to tax the inhabitants of territory owned by or ceded to the United States of America. It also established to power of a government of a district or of a confederated State to lay and levy a tax on the inhabitants of any territory located within their exterior borders that is owned by or ceded to the United States of America. This clause essentially conferred concurrent jurisdiction to the State Governments over any territory located within the exterior borders of their confederated State that was owned by the United States of America. Both the United States of America and a State government could tax and regulate the inhabitants of that portion of “the said territory” which fell within the exterior borders of the confederated State.

“The said territory” was all territory owned by the United States of America that was located North-West of the Ohio River. “The said territory” was initially one district and the legislature of that district could lay and levy a tax on the inhabitants of its district. But Congress could divide “the said territory” into two districts if it wished. In that case, each legislature of the two districts could lay and levy a tax on the inhabitants of its own districts. A territorial State that was formed in “the said territory” would be admitted to the Union, on equal footing with the original States, upon acquiring 60,000 inhabitants. Upon the admission of a territorial State, the admitted State became a free and independent confederated State no longer subject to the territorial jurisdiction of its former district government or of the United



States of America government. The territory of the admitted confederated State was no longer a part of “the said territory” because it was no longer owned by or ceded to the United States of America. However, there would remain territory located within the exterior border of the admitted State which was still owned by the United States of America and therefore a still a part of “the said territory.” The government of such a confederated State had the power to lay and levy a tax on the inhabitants of that part of “the said territory” which fell within the exterior borders of the confederated State. Similarly, the government of an original confederated State had the power to lay and levy a tax on the inhabitants of any territory located within its exterior borders that was owned by the United States of America. In principle, relative to a confederated State, the phrase “the said territory” means all territory located within the exterior borders of the State that is owned by the United States of America. If the government of an original confederated States wanted the power to tax and regulate people, it would have to grant to the United States of America proprietary power over some portion of its territory.

For any federal debt that was apportioned on the States formed in “the said territory,” the pertinent district and State governments would lay and levy a tax on the inhabitants of that portion of “the said territory” which fell within its exterior borders to pay for the apportioned federal debt. The district and State governments were expressly prohibited from imposing a tax on the property of the United State, imposing a higher rate of tax on nonresident proprietors than on residents, and imposing a tax on the use of the navigational waters. The prohibition of certain taxes meant the imposition of any non-prohibited tax was sanctioned.

Since Congress apportioned the federal debt on the States formed in “the said territory” and since the inhabitants of that part of “the said territory” which falls within the exterior border of an confederated State are subject to federal taxation, then all the territory located within the exterior borders of a confederated State that is owned by the United States of America must be considered as a State, different from the Confederated State.

#### **10.3.3.5 Disposal of Soil by the Confederacy Not to be Interfered**

*“The legislatures of those districts or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers.”*

Congress became duty bound through the Resolution of 10 October 1780 to dispose of all land ceded by the original States. Therefore, no legislature of the district government or of an admitted confederated State was to interfere with the duty of Congress to dispose of ceded land. This clause of Article 4 of the Northwest Ordinance reserved to Congress the exclusive right to disposed of the ceded land. Congress may create law to secure the title in such soil to the bona fide purchaser, and the State legislature may not interfere with the laws of Congress to secure such title.

#### **10.3.4 Article 5**

**Northwest Ordinance - Article 5:** *“There shall be formed in the said territory, not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western State in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash Rivers; a direct*



*line drawn from the Wabash and Post Vincents, due North, to the territorial line between the United States and Canada; and, by the said territorial line, to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line, drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided, however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And, whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government: Provided, the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.”*

Article 5 deals with the creation of the territorial States from “the said territory,” and the admission of a territorial State into the United States of America Union.

#### **10.3.4.1 The Creation of Territorial States from “Said Territory”**

*“There shall be formed in the said territory, not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: [ . . . ] Provided, however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan.”*

This first clause of Article 5 of the Northwest Ordinance created, upon its ordainment, the territorial States in “the said territory” that were subject to all acts of the Confederation Congress. “*The said territory*” is specifically described in Section 1 of the Northwest Ordinance as “*Territory of the United States, North-West of the River Ohio,*” which means the territory located North-West of the Ohio River that was owned by the United States of America government. This clause of Article 5 of the Northwest Ordinance also defined the exterior borders of the territorial States, subject to alterations by Congress. Initial, the territorial States were not much more than just lines drawn across the Northwest Territory, subject to be altered by Congress. There is no indication that the territorial States had their own State governments so it appears that the territorial States were mere geographical subdivisions of the territory owned by or ceded to the United States of America for administrative purposes. The territorial State lines would start to have some significance after the Northwest Territory acquired 5,000 inhabitants and the electors of the territorial States would begin to elect representatives from their counties to represent them in the district legislative process. As the number of inhabitants in a territorial State approached 60,000, the defined territorial State borders would gain importance because those borders would be used to determine the State’s qualifications for admission to the Union. Upon admission, the territorial State

boundaries would become the permanent exterior borders of the newly created confederated State of the United States of America Union.

The March 1, 1784 cession of the Northwest Territory to the Confederacy by Virginia was conditioned *“that the Territory so ceded shall be laid out and formed into States containing a suitable Extent of Territory and shall not be less than One hundred nor more than one hundred and fifty Miles Square, or as near thereto as Circumstances will admit.”* However, the boundaries of the States described in Article 5 of the Northwest Ordinance exceeded the 150 miles square limit set in Virginia’s conditions of cession. Therefore Congress had to appeal to the Virginia legislature to alter her conditions of cession so that the larger State boundaries described in the Northwest Ordinance would not be in conflict with their conditions of cession. When the Northwest Ordinance was ordained, Virginia had not yet altered the conditions of their cession. That is why the boundaries of the territorial States described in Article 5 were conditioned on the consent of Virginia: *“and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit:”*

#### **10.3.4.2    The Admission of a Territorial State**

Upon a territorial State acquiring 60,000 inhabitants, the inhabitants of the State were authorized to form for themselves a permanent State constitution and government, after which the State would then be admitted, by its delegates, into the Confederation Congress, *“on equal footing with the original States in all respects whatever.”* Upon admission, the former territorial State was transferred into a new independent confederated State of the United States of America Union. But within the exterior borders of a newly created and admitted confederated State there remained territory that was still owed by the United States of America and therefore, still a part of “the said territory” and still subject to taxation. Any territory located within the exterior borders of a newly admitted confederated State that was owned by the United States of America remained an administrative subdivision of the total territory owned by or ceded to the United States of America. Like the prior district government, the State government of a newly admitted confederated State would function as the local administer for the territory located within its exterior borders that was owned by the United States of America, and was rewarded for doing so with concurrent territorial jurisdiction over the said territory, which included the power to tax and regulated the inhabitants of “the said territory.”

The State constitution and government that the inhabitants formed for themselves had to be republican, had to be in conformity to the principles contained in the articles of the Northwest Ordinance, and had to be consistent with the general interests of the Confederacy. The primary principle establish by the Northwest Ordinance was that proprietary/military power of the United States of America was the basis for territorial jurisdiction within the United States of America Confederacy. Therefore, territorial jurisdiction of the United States of America government and of the several State governments would be limited to territory owned by or ceded to the United States of America. Proprietary power included the ability to make laws, while military power included the ability to tax and enforce the laws.

The permanent States Constitutions created a State government for the admitted confederated States that was modeled similarly to the district government of the Northwest Ordinance. Listed below are some of the basic features of the District Government that were duplicated in the permanent State Constitution of the admitted States.

- 1) Relative to the territory within its exterior borders that was still owned by the United States of America, the State government functioned as an administrative unit of United States of America.
- 2) The State governments would be headed by a governor who was also the Commander in Chief of the State militia.
- 3) The power to regulate and tax people was based on proprietary/military power and therefore was limited to territory owned by or ceded to the United States of America.
- 4) The members of the two-house legislative body of a State government would be elected by the electors of the State, electors who all were on territory owned by the United States of America and therefore subjected to taxation and regulation of both State and federal governments.
- 5) All bills having been passed by both houses would need to be approved by the governor before becoming law.
- 6) The enforcement of the laws was based on the military power of the United States of America. As the Commander in Chief of the State militia, a State Governor possessed all the military power needed for the enforcement of laws in the federal land located within its borders. All police power on federal land was derived from the military power possessed by the Governor.

Like the original States, a newly admitted confederated State would have English common-law for its system of law. The State governments would generally govern the citizens of its confederated State using the power delegated to it by the people, which did not include the power to tax or to regulate the unalienable rights of the people. But the State governments would also govern the inhabitants of the territory located within its exterior borders that was owned by the United States of America using the proprietary/military power of the United States of America, which power included to the power to tax and regulate such inhabitants. Such inhabitants would be taxed and regulated by both the State governments and the United States of America.

After admission of a territorial State, the district government of the former territorial State would cease to exist. If there remained any other territorial States within the subject territory of the United States, then the residual territorial States would be re-organized under a new district government with a new district name for the subject territory.

### **10.3.5 Article 6**

**Northwest Ordinance - Article 6:** *“There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes . . .”*

Article 6 of the Northwest Ordinance prohibited slavery. Some of the organic laws which organized territories of the United States from the South did not include this prohibition.

## **10.4 Military Power Distinguished from Proprietary Power**

Martial law and legislation by authority derived from proprietary power can appear to be the same when a large occupying army is not used for the enforcement of Martial Law. But two characteristics of martial law will always distinguish martial law from legislation by authority derived from proprietary power. First, taxing power is inherent in martial law but not in legislation by authority derived from proprietary power. Second, when a portion of a military occupied territory is sold in fee simple, all proprietary power is transferred to the new owner but the military jurisdiction over the sold land remains in place.

As the United States of America government was trying to settle the vast wilderness of the Northwest Territory, land within the territory was being sold off to private proprietors/settlers. To help facilitate the sale of land, the Northwest Ordinance contained real property laws and provided for intestate succession of property for any such private proprietors/settlers. When the United States of America sold its property, all proprietary power over the land was transferred to the new owner; yet, through the military power possess by the United States of America, the inhabitants of the sold territory continued to be taxed and regulated until their State was admitted to the United States of America Union, on equal footing with the original States. Though all proprietary power over sold property was transferred to the new owner, the sold property would remain territory ceded to the United States of America until the State was admitted to the United States of America Union as an independent Confederated State.

## **10.5 Conclusion**

The Northwest Ordinance accomplished the following:

- 1) Provided the blue print that was used for creating a temporary district government for governing the territorial states prior to their admission. It also established the terms and condition for the admission of a territorial States. 31 out of the 37 admitted States were previously a part of a territory owned and organized by the United States of America government. All such admitted States were admitted under terms and conditions very similar to those of the Northwest Ordinance.
- 2) Established that the proprietary/military power of the United States of America is the basis for all territorial jurisdictions in the United States of America Confederacy. Through the exercise of its proprietary/military power, the United States of America can tax and regulate inhabitants of territory owned by or ceded to the United States of America.
- 3) Conferred concurrent territorial jurisdiction to each confederated State, whether original or to be admitted, over the territory located within the exterior borders of the confederated State that was owned by the United States of America. Both the United States of America and the State government could tax and regulate the inhabitants of all territory located within the exterior borders of the confederated State that was owned by the United States of America.

## **11 Territories of the United States**

This section gives some general information of the territories owned by the Confederacy.

### **11.1 The Incorporated Organized Territories**

The Northwest Territory became the first incorporated organized territory owned by the United States of America. It was “organized” because the district government of the Northwest Territory was created by an organic Act of Congress. A territory is “incorporated” if the organic act which created the territorial government had divided the territory into one or more territorial States and had provided provisions which allowed the inhabitants of such a State to, upon acquiring sufficient inhabitants, form a permanent State constitution and government, after which, the State could be admitted into the Union, on equal footing with the original States. Currently, there are no incorporated organized territories owned by the United States of America; the last one was the Territory of Alaska, which was admitted as the State of Alaska on 1959. A total of 31 admitted States were previously a part of incorporated organized territory

owned by the United States of America. These States were, previous to their admission, subject to the territorial jurisdiction of the United States of America and of a district government structured very much like the district government of the Northwest Territory. **Table 1**, shown below, identifies the historical incorporated organized territories that were owned by the Confederacy and gives a rough idea of what became of those territories of the United States.

Table 1 - The Historical Incorporated Organized Territories of the United States

Name of Territory	Years of existence	Details of what became of the Territory
Northwest	1787-1803	became Indiana Terr. (1800) and the State of Ohio
Southwest	1790-1796	became the State of Tennessee
Mississippi	1798-1817	became the State of Mississippi & Alabama Terr.
Indiana	1800-1816	became western Mich. Terr. (1805), Illinois Terr. (1809) & the State of Indiana
Orleans	1804-1812	became the State of Louisiana
Michigan	1805-1837	became Wisconsin Terr. (1836) & the State of Michigan
Louisiana	1805-1812	renamed to Missouri Territory
Illinois	1809-1818	became part of Michigan Territory & the State of Illinois
Missouri	1812-1821	became the State of Missouri and the rest unorganized territory
Alabama	1817-1819	became the State of Alabama
Arkansas	1819-1836	became the State of Arkansas & the rest unorganized Indian territory
Florida	1822-1845	became the state of Florida
Wisconsin	1836-1848	became Iowa Terr (1838), and the State of Wisconsin, with a portion becoming a part of Minnesota Terr.
Iowa	1838-1846	became the State of Iowa & the rest unorganized
Oregon	1848-1859	became Washington Terr (1853) & (1859), & the State of Oregon
Minnesota	1849-1858	
New Mexico	1850-1912	became Colorado Terr (1861), Arizona Terr (1863) & State of New Mexico
Utah	1850-1896	became part of Nevada Terr, Nebraska Terr, & Colorado Terr (1861), parts ceded to Nevada Terr (1862 & 1866) & Wyoming Terr, admit State of Utah
Washington	1853-1889	became Idaho Terr (1863) & the State of Washington
Kansas	1854-1861	became the State of Kansas and a part of the Colorado Terr.
Nebraska	1854-1867	became part of Colorado Terr (1861), Dakota Terr (1861), Idaho Terr (1863), & admitted as the State of Nebraska
Colorado	1861-1876	became the State of Colorado
Nevada	1861-1864	became the State of Nevada
Dakota	1861-1889	became Idaho Terr (1863), and the States of North Dakota & South Dakota
Arizona	1863-1912	a part annexed to the State of Nevada (1866), & admit as the State of Arizona
Idaho	1863-1890	parts annexed to Montana Terr & Dakota Terr (1864) & Wyoming Terr (1868), admitted as the State of Idaho
Montana	1864-1889	became the State of Montana
Wyoming	1868-1890	became the State of Wyoming
Oklahoma	1890-1907	became the State of Oklahoma
Hawaii	1900-1959	became the State of Hawaii
Alaska	1912-1959	became the State of Alaska

## 11.2 The Current Territories of the United States

None of the territories currently owned by the United States of America are Incorporated Organized territories. The territories of Guam, Northern Mariana, Puerto Rico, and Virgin Islands are all unincorporated organized territories. They are organized because the territorial government was created by an organic Act of Congress. They are unincorporated because the organic Act which created the territorial government does not contain provisions which allow the territories to be admitted to the United States of America Union.

The American Samoa territory is an unincorporated unorganized territory. Though the American Samoa has a government, the government was not organized by an organic Act of Congress. In addition to American Samoa, there are about ten other very small unincorporated unorganized territories of the United States, all of which are essentially uninhabited.

Shown below are the pertinent dates in which the United States acquired its Territories:

- 1) In the 1898 Treaty of Paris, Spain ceded Puerto Rico and Guam to the United States.
- 2) In the 1899 [Tripartite Convention](#), Germany and the United States partitioned the [Samoa Islands](#) into two parts: the eastern island group became a territory of the United States (the Tutuila Islands in 1900 and officially Manu'a in 1904) and is today known as American Samoa;
- 3) In the 1916 Treaty of the Danish West Indies, sovereignty of the Virgin Islands in the Danish West Indies was transferred from Denmark to the United States in exchange for a sum of US\$ 25 million in gold.
- 4) On June 15, 1944, near the end of [World War II](#), the United States military invaded the Mariana Islands, starting the [Battle of Saipan](#), which ended on July 9. After Japan's defeat in World War II, starting on April 2, 1947, the Northern Marianas were administered by the United States pursuant to [Security Council Resolution 21](#) as part of the [United Nations Trust Territory of the Pacific Islands](#), which gave responsibility for defense and foreign affairs to the United States. On March 24, 1976, upon the enactment of a covenant as Public Law 94-242 (90 Stat. 263), which statute is codified at 48 USC §1801, the Northern Mariana Islands became a Commonwealth of the United States.

### **11.3 Not All Admitted States were From Incorporated Organized Territories**

Out of thirty-seven total States which were admitted to the United States of America Union, six of them were never previously a part of an incorporated organized territory of the United State.<sup>27</sup> Kentucky and West Virginia were both split off from Virginia; Maine was split off from Massachusetts. In 1846, California became a self-declared republic and a month later accepted the protection of the United States of America, including the appointment of military governors until its admission in 1850. Vermont and Texas were both previously self-declared republics. The below shown Acts of Congress which admitted Kentucky and Maine clearly show that these States were formed from within the jurisdiction of one of the original States rather than from territory that was cede to the Confederacy.

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<sup>27</sup> [https://en.wikipedia.org/wiki/Organized\\_incorporated\\_territories\\_of\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Organized_incorporated_territories_of_the_United_States)



**1 Stat. 189, Ch. 4, February 4, 1791** – “An Act declaring the consent of Congress, that a new State be formed within the jurisdiction of the Commonwealth of Virginia, and admitted into this Union, by the name of the State of Kentucky.

WHEREAS the legislature of the commonwealth of Virginia, by an act entitled "An act concerning the erection of the district of Kentucky into an independent State," passed the eighteenth day of December, one thousand seven hundred and eighty-nine, have consented, that the district of Kentucky, within the jurisdiction of the said commonwealth, and according to its actual boundaries at the time of passing the act aforesaid, should be formed into a new State: And whereas a convention of delegates, chosen by the people of the said district of Kentucky, have petitioned Congress to consent, that, on the first day of June, one thousand seven hundred and ninety-two, the said district should be formed into a new State, and received into the Union, by the name of "The State of Kentucky:"

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared, That the Congress doth consent, that the said district of Kentucky, within the jurisdiction of the commonwealth of Virginia, and according to its actual boundaries, on the eighteenth day of December, one thousand seven hundred and eighty-nine, shall, upon the first day of June, one thousand seven hundred and ninety-two, be formed into a new State, separate from and independent of, the said commonwealth of Virginia.

SEC. 2. And be it further enacted and declared, That upon the aforesaid first day of June, one thousand seven hundred and ninety-two, the said new State, by the name and style of the State of Kentucky, shall be received and admitted into this Union, as a new and entire member of the United States of America.

**3 Stat. 544, Ch. 19, March 3, 1820** - “An Act for the admission of the State of Maine into the Union.

WHEREAS, by an act of the State of Massachusetts, passed on the nineteenth day of June, in the year one thousand eight hundred and nineteen, entitled "An act relating to the separation of the district of Maine from Massachusetts proper, and forming the same into a separate and independent State," the people of that part of Massachusetts heretofore known as the district of Maine, did, with the consent of the legislature of said State of Massachusetts, form themselves into an independent State, and did establish a constitution for the government of the same, agreeably to the provisions of said act-Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the fifteenth day of March, in the year one thousand eight hundred and twenty, the State of Maine is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.”

**1 Stat. 191, Ch. 7, February 18, 1791** – “An Act for the admission of the State of Vermont into this Union.

THE State of Vermont having petitioned the Congress to be admitted a member of the United States, Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared, That on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and style of “The State of Vermont,” shall be received and admitted into this Union, as a new and entire member of the United States of America.”

## **11.4 District Governments Became Subdivisions of the U.S. Administration**

On June 21, 1788, upon the ratification by the first nine confederated States, the Constitution of September 17, 1787 was established. With the establishment of the Constitution of September 17, 1787,



the Northwest Ordinance needed to be adopted to the Constitution in order to remain in effect under the Constitution. Section 1 of 1 Stat. 50, Chapter 8, dated August 7, 1789, provided the provisions needed to adopt the Northwest Ordinance to the Constitution of September 17, 1787. The provisions placed the district government under the administrative Government of the United States headed by the President of the United States. All communications of the district government was no longer to be with the Confederation Congress, but instead with the President of the United States. The President of the United States shall nominate, and by and with the advice and consent of the Senate, shall appoint all district officers that previously would have been appointed by the Confederation Congress under the Northwest Ordinance. Also the President of the United States possessed the power to revoke the commission of district officers, a power that was previously exercised by the Confederation Congress under the Northwest Ordinance.

Under the Constitution of September 17, 1787, the Confederation Congress, renamed to the Senate, still manages the property of the United States of America **under their direction** as required under Article 9 of the Articles of Confederation. Though the President of the United States nominates all officers of the district governments, all appointments are made “by and with the advice and consent of the Senate.” Also, impeachment of the President of the United States could be for any or no reason, placing the President of the United States firmly under the control of the Senate.

Every temporary district government succeeding the district government of the Northwest Territory has had the same provisions built right into their organic laws. Starting with the temporary district government created in 1790 for the Southwest Territory, all succeeding temporary district governments became subdivisions of the Administration head by the President of the United States at the time of their establishment.

**1 Stat. 50, Ch. 8., August 7, 1789 -** “An Act to provide for the Government of the Territory North-west of the river Ohio.

*Whereas in order that the ordinance of the United States in Congress assembled, for the government of the territory north-west of the river Ohio may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States.*

*SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which by the said ordinance, any information is to be given, or communication made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information and to make such communication to the President of the United States, and the President shall nominate, and by and with the advice and consent of the Senate, shall appoint all officers which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled, might, by the said ordinance, revoke any commission or remove from any office, the President is hereby declared to have the same powers of revocation and removal.”*

## **12 The Constitution of September 17, 1787**

The Constitution of September 17, 1787,<sup>28</sup> produced by the Constitutional Convention, is the fourth and final Organic Law of the United States of America. The Constitution of September 17, 1787 was established on June 21, 1788, upon the ratification by the first nine original States and fully ratified by all 13 original States on May 29, 1790.

## **12.1 Overview of the Constitution of September 17, 1787**

A preliminary review of a few basic concepts concerning of the Constitution of September 17, 1787 will be helpful to understand the specific clauses of the Constitution

### **12.1.1 Ultimate Goal of State Governments**

The politicians of the original confederated States wanted some written authority to tax and regulate persons, powers which the people of the original States did not possess. Through the Northwest Ordinance, the United States of America government demonstrated to the state governments their ability to tax the inhabitants of territory owned by the United States of America. A tax scheme was initiated under the Northwest Ordinance that shared the taxation power of the confederal government with the State governments. However, the shared taxation power was limited to territory located within the exterior borders of the confederated States that was owned by the United States of America. Furthermore, prior to the establishment of the Constitution of September 17, 1787, there was no territory located within the exterior borders of the confederated States that was owned by the United States of America. In order to acquire the taxation power demonstrated by the Northwest Ordinance, the confederated States ratified the Constitution of September 17, 1787. The Constitution of September 17, 1787 was a follow-through plan to complete the taxing scheme started under the Northwest Ordinance.

### **12.1.2 Intention of the Framers**

Ratification of the Constitution of September 17, 1787 erected a federated State within the exterior borders of each ratifying confederated States, consisting of the territory therein that was owned by the United States of America. Both the United States of America government and a State government share concurrent territorial jurisdiction over the federated State erected within the exterior borders of the State and can legitimately tax and regulated the inhabitants thereof. But the Framers of the Constitution of September 17, 1787 were not content to tax just the inhabitants of the federated States; they wish to also tax all of the inhabitants of the confederated States. Legitimate taxation of the inhabitants of the confederate States was not possible by the United States of America. Therefore, the intent of the Framers of the Constitution of September 17, 1787 was to deceive the inhabitants of the confederated States into giving up their rights by the following manner:

- 1) Create the United States Union of federated States, a Union in addition to and separate from the existing United States of America Union of confederated States created under the Articles of Confederation. One federated State was erected within the jurisdiction of each confederated State consisting of the territory therein that was owned by, or to be owned by, the United States of

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<sup>28</sup> <https://organiclaws.org/the-constitution-of-1787/>

America. For each federated State, both the United States of America government and the state government shared concurrent territorial jurisdiction and therefore, could to tax and regulate the inhabitants and citizens of the federated State.

- 2) Create the illusion that the United States Union was a replacement for the United States of America Union. With this illusion established, it would be easy to fool the “free inhabitants” of the confederate States into incorrectly thinking that their confederated State no longer existed and was replaced by a federated State. Thereby, the “free inhabitants” were deceived into incorrectly thinking that they resided in a federated State and therefore, incorrectly concluded that they were subject to the federal laws of the United States of America, including the federal tax laws.
- 3) Make sure no government officers took a binding oath “to support this Constitution,” so that no constitutional limited government was formed and the constitutional officers had a license to not tell the truth about the limited territorial jurisdiction of the United States of America government.
- 4) Conflate the terms “United States of America” with the “United States” so that Americans would not be able to distinguish between the two.

### **12.1.3 Effects of the Ratification of the Constitution of September 17, 1787**

On June 21, 1788, upon the ratification by the first nine original States, the Constitution of September 17, 1787 was established between the ratifying states. Ratification of Constitution accomplished the following:

- 1) **Revised the Articles of Confederation.** The February 21, 1787 resolution of the Confederation Congress had convened the May 25, 1787 Constitutional Convention and charged the Convention to propose revisions to the Articles of Confederation of November 15, 1777 that would render the articles adequate to meet the urgent needs of the confederal government and to preserve the United States of America Union. Therefore, the Constitution of September 17, 1787 should be read and interpreted to have achieved its stated goal. Upon ratification of the Constitution of September 17, 1787, the Articles of Confederation were revised to rename the Confederation Congress from the “United States of America, in Congress assembled” to the “Senate,” and to create the Office of President of the United States of America with executive power.
- 2) **ers.** Furthermore, on failure to adopt the Constitution of September 17, 1787, Article I Section 1 of the Constitution was used to amend the Articles of Confederation to create a two-house Congress of the United States, under the authority of the Articles of Confederation, vested with the power to exercise exclusive legislation over the United States and other territories owned by or ceded to the United States of America.
- 3) **Created the United States Union of federated States,** by means of the steps described below.
- 4) **Created the unwritten “Constitution of the United States,”** which, in the context of the POTUS oath of office, means the territorial composition of the United States Union. There can be no composition of a Union until the Union itself exists. At the time the Constitution of September 17, 1787 was established, the United States Union was created and hence, the unwritten “Constitution of the United States” came into being.
- 5) **Established the United States corporation structure** which will become the Government of the United State upon the adoption of the Constitution of September 17, 1787 by the federal and State officers. Adoption is done by subscribing a written oath “to support this Constitution.” Adoption

would bind the governmental officers to obey the “this Constitution,” which, among other things, would require governmental officers to acknowledge that the legislative power of Congress was limited to territory owned by or ceded to the United States of America.

#### **12.1.4 Steps Taken To Create the United States Union of Federated States**

Ratification of the Constitution of September 17, 1787 created the United States Union of federated States through the following steps:

- 1) Bound the ratifying State governments to all the terms contained in the Constitution of September 17, 1787, including the grant of power to exercise exclusive legislation over territory located within the exterior borders of their confederated State that was to be either ceded by particular States for the Seat of the Government of the United States or purchased by the consent of the State legislature for the erection of forts, magazines, and other useful buildings. All such purchased territory was named the “United States.” The State governments essentially granted proprietary power to the United States of America over all such territory.
- 2) Erected a federal enclave State within the exterior borders of each ratifying confederated State from the collective “all Places” purchased therein by the consents of the State legislature.
- 3) Created the Government of the United States as an administrative unit of the United States of America government for purposes of administering the territory and other property owned by the United States of America. The Government of the United States includes its own two-house Congress of the United States, consisting of a Senate and House of Representatives, vested with legislative power over the Seat of Government of the United States and over the United States.
- 4) United the several federal enclave States into the United States Union through the State government’s Representatives to the Congressional House of Representatives. Thereby, the several federal enclave States became the several States of the United States Union.
- 5) As the United States was created from territory that is a part of the Confederated States, the United States of America government already possessed all the international sovereign powers over the United States that was granted by the several State governments under the Articles of Confederation.
- 6) Divided the sovereign territorial powers over the United States between the United States of America government and the several State governments. Thereby:
  - a) The several States of the United States Union became federated States of the United States Union.
  - b) The United States of America government took on a new additional role as the federal government of the United States, but also remained the confederal government of the several confederated States. The United States of America would govern the United State using its proprietary/military power, which included the power to tax and regulate the inhabitants.
  - c) Each of the several State governments remained the general government of its confederated State. The several State governments continue to govern all the territory located within the exterior borders of their confederated State with the power delegated to it by the People, which power did not include the power to tax the People or to regulate to unalienable rights of the People.
  - d) Each of the several State governments took on a new additional role as an administrative subunit under the Government of the United States to administer the federated State erected within the exterior borders of its confederated State. As a reward for administering the federated State, concurrent territorial jurisdiction over the federated State is conferred to each State government.

The State governments began to govern the federated States using the conferred proprietary/military power of the United States of America, which included the power to tax and regulate the inhabitants of the federated State.

- 7) Change the meaning of “citizen of the United States,” and expand the citizenship created under the Northwest Ordinance and annotated therein as a citizen “of any other States that may be admitted into the Confederacy” to include “citizens of the United States,” under its new meaning. “Citizens of the United States” are dual-citizens: as “citizens of the United States,” they elect the members of the Congressional House of Representatives, and as citizens of one of the federated State, they elect the members of their State legislation. Thereby, the United States Union became republican State with its own law, territory and government, including the citizens/electors to elect the government officials. Being domiciled on federal land and having representation in both the Congressional House of Representative and in the State legislative assembly, “citizens of the United States” are subject to both federal and state laws, include the taxation laws.

### **12.1.5 Special Phrases Used in the Constitution of September 17, 1787**

As there are multiple Constitutions, Unions, and Congresses referenced in the Constitution of September 17, 1787, there is a need to be able to distinguish which particular Constitution, Union, or Congress is being referenced in any particular context of the Constitution. The below sub-sections explain how to distinguish the specific Constitution, Union or Congress being referenced in any specific context of the Constitution, and also explain the multiple context sensitive meanings of the key term “United States.”

#### **12.1.5.1 “this Constitution” versus the “Constitution of the United States”**

September 17, 1787 is the date on which thirty-nine delegates to the Constitution Convention signed the Constitution of September 17, 1787, to authenticate the document. Unfortunately, nowhere within the Constitution of September 17, 1787 is that document given a specific name. However, the Constitution of September 17, 1787 is described as “This Constitution for the United States of America” in the Preamble. Including the Preamble, the phrase “this Constitution” is used 11 times in the Constitution of September 17, 1787 to refer to itself. “This Constitution” is the one being read. “This Constitution” is the one that was signed by the 39 delegates and later ratified by the 13 original confederated States. The phrase “this Constitution” is found in every article of the Constitution of September 17, 1787.

Hidden in the Constitution of September 17, 1787 is another constitution, the “Constitution of the United States”, which is mentioned only once in the Constitution of September 17, 1787. Clearly, the language of the written Constitution of September 17, 1787 makes the existence of more than one Constitution a certainty. The Framers of this Constitution had gone to great efforts to refer to the Constitution of September 17, 1787 as “this Constitution” eleven times in order to distinguish it from another contained within the same instrument. The use of the phrase “this Constitution” was necessary to distinguish the Constitution of September 17, 1787, from the mutually exclusive and different constitution, the unwritten “Constitution of the United States”.

#### **12.1.5.2 “this Union” versus “the Union”**

Within the Constitution of September 17, 1787, the phrase “this Union” is used three times and the phrase “a more perfect Union” is used once. Both phrases refer to the United States Union of federated States

created upon the establishment of the Constitution of September 17, 1787. Use of the phrase “this Union” was necessary to distinguish the United States Union of federated States from the United States of America Union of confederated States. The phrase “the Union” appears twice in the Constitution of September 17, 1787 and refers to the United States of America Union of confederated States created under the Articles of Confederation.

#### **12.1.5.3    The Confederation Congress versus the Congress of the United States**

There are two Unions of States referenced in the Constitution of September 17, 1787, and each Union has its own congress. The Confederation Congress is the Congress for the United States of America Union, while the Congress of the United States is the Congress for the United States Union.

Upon ratification of the Constitution of September 17, 1787, the name of the Confederation Congress was changed from the “United States of America in Congress assembled” to the “Senate,” thus becoming the “Senate of the United States of America.” The Senate of the United States of America, as the new representatives for the several State governments, retained all the international/national powers granted to it under the Articles of Confederation, except for those international powers which the Confederation Congress delegated to the President of the United States of America. Essentially, the Confederation Congress is the depository of all proprietary power and all the powers delegated to the United States of America government by the people through their States, including all international, national, and military powers. But all legislative powers herein granted are vested in the two-house Congress of the United States. The Congress of the United States, as an instrumentality of the confederal government, carries the powers of the Confederation Congress into execution by the enactments of appropriated statutory law. The Senate is also granted the power to try all impeachments.

A completely new congress is created through the ratification of the Constitution of September 17, 1787. The “Congress of the United States” is comprised of “a Senate and House of Representatives.” The Congress of the United States is vested with the power to exercise exclusive legislation over the United States Union and the District of Columbia; to make all needful rules respecting the Territories belong to the United States; and to make all laws necessary to carry into execution to powers of the Confederation Congress.

The word “Congress” appears 29 times in the body of the Constitution of September 17, 1787. In only two occurrences, is the word “Congress” explicitly identified as the “Congress of the United States.” In all other instances of the word “Congress,” the context must be analyzed to determine which Congress is being referenced: either the Congress of the United States with the power to create legislation or the Confederation Congress possessing the power that is brought into execution through the enactment of legislation. The context sensitive multiple meanings of the word “Congress” have masterfully kept hidden from the general public the presence of the Confederation Congress within the Constitution, misleading most Americans into incorrectly concluding that the establishment of the Constitution repealed or replaced the Articles of Confederation.

#### **12.1.6    The Multiple Context Sensitive Meanings of “United States”**

The key and pivotal term “United States” is never defined in the Organic Laws of the United States of America. However, through the contexts of its usages in the Organic Laws of the United States of



America, the meanings of the term “United States” can be discovered. Both the Articles of Confederation and the Constitution of September 17, 1787 contain multiple context sensitive meanings for the term “United States.” The below subsections will review the multiple context sensitive meanings for the term “United States” and provide examples of the various contexts. Also, where applicable, each of the context sensitive meanings of the term “United States” found in the Organic Laws of the United States of America will be identified with one of the several senses of the term “United States” described in the U.S. Supreme Court opinion of *Hooven & Allison Co. v. Evatt* (1945). An understanding of the various context sensitive meanings for the term “United States” is crucial to understanding the meaning of the Constitution of September 17, 1787 and statutory laws of the United States of America.

**Hooven & Allison Co. v. Evatt, 324 U.S. 652, (1945)** - *"The term "United States" may be used in any one of several senses. [1] It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. [2] It may designate the territory over which the sovereignty of the "United States" extends or [3] It may be the collective name of the states which are united by and under the Constitution."*

#### **12.1.6.1 Singular Political “United States”**

For a singular political context, the term “United States” refers to the United States of America government. In this context, “United States” is an abbreviation for the “United States of America.”

The singular political “United States” is the United States [1] described in *Hooven & Allison Co. v. Evatt*: *It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations.* All international powers of the United States of America Confederacy have been delegate to the United States of America government. The exercise of the international powers of the United States of America is split between the President of the United States of America and the Confederation Congress, now called the Senate. On the world stage, the President of the United States of America represents the United States of America Confederacy.

- **Articles of Confederation - Article 5 Section 2:** “. . . nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.” This instance of “United States” has a **singular political** context and refers to the United States of America government.
- **Constitution of September 17, 1787 - Article I Section 8 Clause 2:** “To borrow Money on the Credit of the United States.” This instance of “United States” has a **singular political** context and refers to the United States of America government.

#### **12.1.6.2 Plural Political “United States”**

For a plural political context, the term “United States” refers to the several State governments. Collectively, the several State governments are represented by the United States of America government. So if the context is referring to the several State governments collectively, then the term “United States” could also be interpreted as a reference to the United States of America government.

The plural political “United States” is not described in *Hooven & Allison Co. v. Evatt*.

- **Articles of Confederation - Article 9 Section 6:** “. . . nor ascertain the sums and expenses necessary for the defence and welfare of the united states, or any of them,” The underlined text has both a **singular political and plural political** context and means the “Confederation government or any government of the confederated States of the United States of America Union.” The word “them” is a plural pronoun which refers to the term “united states” in a plural political context.
- **Articles of Confederation - Article 5 Section 1:** “For the more convenient management of the general interests of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct . . .” This context is **plural political** and refers to the several State governments, collectively. In this context, the term “United States” could also be interpreted as a reference to the United States of America government.
- **Constitution of September 17, 1787 - Article II Section 1 Clause 7:** “The President shall, at Stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.” - The underlined text has **both a singular political and a plural political context** and means: “from the United States of America government or from any of the several State governments. The word “them” is a plural pronoun which refers to the phrase “United States” in a plural political context.

#### 12.1.6.3 **Plural Geographical “United States”**

For a plural geographical context, the term “United States” refers to the territory of the confederated States of the United States of America Union, States which were united under the Articles of Confederation. The term “United States,” in a plural geographic context, is a direct reference to the confederated States themselves which are united, and the word “united” is an adjective used to describe the common noun “State.”

The term “United States,” in a plural political context, is seldom used today and is not described in *Hooven & Allison Co. v. Evatt*. Except for the Preamble, the term “United States,” in a plural political sense, does not appear in the Constitution of September 17, 1787.

- **Articles of Confederation - Article 4 Section 2:** “If any Person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states . . .” This context is **plural geographical** and refers to the territory of any of the confederated States of the United States of America Union. The word “any” preceding “united States” confirms the plural context.
- **Constitution of September 17, 1787 – Preamble** – See the section concerning the Preamble for details.

#### 12.1.6.4 **Singular Geographical “United States”**

No additional new meaning for the term “United States” was introduced within the Northwest Ordinance. But in Article I Section 8 Clause 17 of the Constitution of September 17, 1787, a new context sensitive meaning for the term “United States” was introduced. The “United States,” in a singular geographical

context, was created under Article I Section 8 Clause 17 and consisted of territory located within the exterior borders of the confederated States that was to be purchased by the consent of the State legislatures for forts, magazines, arsenals, dock-yards, and other needful buildings. For each confederated State, the collective all places located therein that was purchased by the consent of the State legislature was erected into a federated State of the United States Union. The term “United States,” in a singular geographic context, is interpreted two different ways:

- 1) Within the Constitution of September 17, 1787, the term “United States” has a narrower territorial scope and is a direct reference to the “United States” Union in which the federated States are united. The “United States,” in a singular geographical context, is an indirect reference to the territory of the federated States, consisting exclusively of territory owned by the United States of America that is located within the exterior borders of the confederated States. This narrow meaning of the term “United States” is described in the case of *Hooven & Allison Co. v. Evatt* as United States [3]: *“It may be the collective name of the states which are united by and under the Constitution.”*
- 2) Without the Constitution of September 17, 1787, when dealing with foreign sovereigns or with the territorial jurisdiction of the United States of America, the term “United States,” in a singular geographical context, has a broader meaning than what it has within the Constitution and includes: the United States Union of federated States, the District of Columbia, and the U.S. Territories. This broader meaning of the term “United States” is described in the case of *Hooven & Allison Co. v. Evatt* as United States [2]: *It may designate the territory over which the sovereignty of the “United States” extends.* The territorial jurisdiction of the United States of America government is the territory owed by or ceded to the United States of America and includes: the United States Union of federated States, the District of Columbia, and the U.S. Territories.

Some of the other instances of the term “United States” in the Constitution of September 17, 1787, which have a singular geographical context include: Article I Section 8 Clause 1, Article I Section 8 Clause 4, Article I Section 8 Clause 17, Article II Section 1 Clause 4, Article II Section 1 Clause 8, 13<sup>th</sup> Amendment, and the 14<sup>th</sup> Amendment. Within the Constitution, each instances of the term “United State,” in a singular geographic context,” means the federated States of the United States Union and excludes the District of Columbia and the U.S. Territories.

#### **12.1.6.5 Further Clarification of the Meaning of the Singular Geographical “United States”**

The U.S. Supreme Court case of *Valmonte v. I.N.S.* provides further clarification and confirmation of the territorial scope of the term “United States,” in a singular geographical context. Valmonte distinguishes between States of the Union and the U.S. Territories (U.S. Virgin Islands, Puerto Rico, Guam, Northern Marina Island, and America Samoa). The case did not address the District of Columbia. But, to be compatible with the state citizenship clause of the 14<sup>th</sup> Amendment, the territorial scope of the “United States” would have to exclude the District of Columbia. Valmonte expressly said that under Article I Section 8 Clause 1 (the uniformity clause),<sup>29, 30</sup> the 13 Amendment,<sup>31</sup> and the 14<sup>th</sup> Amendment,<sup>32, 33</sup> the

<sup>29</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - *“The Court considered the territorial scope of the term “the United States” in the Constitution and held that this term as used in the uniformity clause of the Constitution was territorially limited to the states of the Union. U.S. Const. art. I, § 8 (“[A]ll Duties, Imposts and Excises shall be uniform throughout the United States.” (emphasis added)); see Downes v. Bidwell, 182 U.S. 244, 251, 21 S.Ct. 770,*

territorial scope of the term “United States” includes the States of the Union but excludes the U.S. Territories. The case also indicated that within the context of the Constitution of September 17, 1787, there is only one geographical meaning for the term “United States.”<sup>34</sup> Therefore, we know that within the Constitution of September 17, 1787, the term “United States,” in a singular geographic context, means the 50 federated States of the United States Union. But for international issues dealing with foreign sovereignties, the term “United States” in a geographical context has a broader meaning and includes the 50 federated States of the United States Union, the District of Columbia, and the U.S. Territories.<sup>35</sup> Also, Valmonte indicates that territorial jurisdiction of the United States of America government is the “United States” in its broader international meaning and includes the 50 federated States of the United States Union, the District of Columbia and the U.S. Territories.<sup>36, 37</sup>

The key to understanding Valmonte v. I.N.S., and therefore meaning of the term “United States,” in a singular geographic context, is to know which Union the case is talking about. All the following descriptions of the Union found in Valmonte, reveals that the Valmonte case is referring to the United States Union of federated States create under the Constitution of September 17, 1787:

- 1) (“[I]t can nowhere be inferred that the territories were considered a part of the United States. The Constitution was created by the people of the United States, as a union of States, to be governed solely by representatives of the States; ... In short, the Constitution deals with States, their people, and their representatives.” --- The federated States of the United States Union are the only States which have Representatives in the Congressional House of Representatives to govern the people of

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773, 45 L.Ed. 1088 (1901) (“[I]t can nowhere be inferred that the territories were considered a part of the United States.”

<sup>30</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - “Puerto Rico was merely a territory "appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution." Downes, 182 U.S. at 287, 21 S.Ct. at 787.”

<sup>31</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - “The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply.”

<sup>32</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - “Citizenship under the Fourteenth Amendment, however, "is not extended to persons born in any place 'subject to [the United States ' ] jurisdiction,' " but is limited to persons born or naturalized in the states of the Union. Downes, 182 U.S. at 251, 21 S.Ct. at 773 (emphasis added); see also id. at 263, 21 S.Ct. at 777”

<sup>33</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - “In sum, persons born in the Philippines during its status as a United States territory were not "born ... in the United States" under the Fourteenth Amendment. Rabang, 35 F.3d at 1453 (Fourteenth Amendment has an "express territorial limitation which prevents its extension to every place over which the government exercises its sovereignty.").

<sup>34</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - “[I]n dealing with foreign sovereignties, the term 'United States' has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal government, wherever located.”

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - “The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply.”

those States. The Confederated States do not have Representatives but instead have delegates, now called Senators, in the United States in Congress assembled, now called the Senate. The Senate governs the confederated States on external international matters, but not the internal matters nor the people of the confederated States. The people of the confederated States are instead governed by God's Laws, also known as English common-law.

- 2) (*"As we have seen, [the Philippines] are not a part of the United States in the sense that they are subject to and enjoy the benefits or protection of the Constitution, as do the states which are united by and under it."*); see *id.* at 673-74, 65 S.Ct. at 881 (*Philippines "are territories belonging to, but not a part of, the Union of states under the Constitution,"* --- The only Union of States created under the Constitution of September 17, 1787 is the United States Union of federated States. The United States of America Union of confederated States was created under the Articles of Confederation.
- 3) *"The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply."* --- Here it is revealed that the territorial jurisdiction of the United States of America government includes the States of the Union plus other places (the District of Columbia and the U.S. Territories). Article I Section 8 clause 17 is a grant of power to exercise exclusive legislation over territory to be ceded to by particular States for the Seat of Government of the United States plus territory located within the exterior border of the confederated States that is to be purchased by the consent of the State legislature. Article I Section 8 Clause 17 describes the territory from which the United States Union of federated States is created under the Constitution and these are the States which are part of the territorial jurisdiction of Congress. The other parts of the territorial jurisdiction of the United States of America are the District of Columbia and the U.S. Territories. Congress has no territorial jurisdiction over territory located within the exterior borders of the confederated States that is not owned by the United States of America.

Everything falls into place once you realize that *Valmonte v. I.N.S.* is about the federated States of the United States Union, the states consisting exclusively of federal territory. Within the Constitution of September 17, 1787, the term "United States," in a singular geographic context, means the 50 federated States of the United States Union, States consisting exclusively of federal territory. On issues dealing with foreign sovereignties or the territorial jurisdiction of the United States of America, the territorial scope of the term "United States" has a broader meaning, and includes the 50 federated States of the United States Union, the District of Columbia, and the U.S. Territories. The term "United States," in a singular geographical context, has nothing to do with the confederated States of the United States of America Union.

***Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)***

"The principal issue in this petition is the territorial scope of the term "the United States" in the Citizenship Clause of the Fourteenth Amendment, U.S. Const. amend. XIV, § 1 ("All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." (emphasis added)). Petitioner, who was born in the Philippines in 1934 during its status as a United States territory, argues she was "born ... in the United States" and is therefore a United States citizen.

Petitioner's argument is relatively novel, having been addressed previously only in the Ninth Circuit. See *Rabang v. INS*, 35 F.3d 1449, 1452 (9th Cir.1994) ("No court has addressed whether persons born in a United States territory are born 'in the United States,' within the meaning of the Fourteenth



Amendment."), cert. denied sub nom. *Sanidad v. INS*, 515 U.S. 1130, 115 S.Ct. 2554, 132 L.Ed.2d. 809 (1995). In a split decision, the Ninth Circuit held that "birth in the Philippines during the territorial period does not constitute birth 'in the United States' under the Citizenship Clause of the Fourteenth Amendment, and thus does not give rise to United States citizenship." *Rabang*, 35 F.3d at 1452. We agree.

Despite the novelty of petitioner's argument, the Supreme Court in the *Insular Cases* provides authoritative guidance on the territorial scope of the term "the United States" in the Fourteenth Amendment. The *Insular Cases* were a series of Supreme Court decisions that addressed challenges to duties on goods transported from Puerto Rico to the continental United States. Puerto Rico, like the Philippines, had been recently ceded to the United States. The Court considered the territorial scope of the term "the United States" in the Constitution and held that this term as used in the uniformity clause of the Constitution was territorially limited to the states of the Union. U.S. Const. art. I, § 8 ("[A]ll Duties, Imposts and Excises shall be uniform throughout the United States." (emphasis added)); see *Downes v. Bidwell*, 182 U.S. 244, 251, 21 S.Ct. 770, 773, 45 L.Ed. 1088 (1901) ("[I]t can nowhere be inferred that the territories were considered a part of the United States. The Constitution was created by the people of the United States, as a union of States, to be governed solely by representatives of the States; ... In short, the Constitution deals with States, their people, and their representatives."); *Rabang*, 35 F.3d at 1452. Puerto Rico was merely a territory "appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution." *Downes*, 182 U.S. at 287, 21 S.Ct. at 787.

The Court's conclusion in *Downes* was derived in part by analyzing the territorial scope of the Thirteenth and Fourteenth Amendments. The Thirteenth Amendment prohibits slavery and involuntary servitude "within the United States, or any place subject to their jurisdiction." U.S. Const. amend. XIII, § 1 (emphasis added). The Fourteenth Amendment states that persons "born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend XIV, § 1 (emphasis added). The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply. *Downes*, 182 U.S. at 251, 21 S.Ct. at 773. Citizenship under the Fourteenth Amendment, however, "is not extended to persons born in any place 'subject to [the United States] jurisdiction,' " but is limited to persons born or naturalized in the states of the Union. *Downes*, 182 U.S. at 251, 21 S.Ct. at 773 (emphasis added); see also *id.* at 263, 21 S.Ct. at 777 ("[I]n dealing with foreign sovereignties, the term 'United States' has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal government, wherever located.").

Following the decisions in the Insular Cases, the Supreme Court confirmed that the Philippines, during its status as a United States territory, was not a part of the United States. See *Hooven & Allison Co. v. Evatt*, 324 U.S. 652, 678, 65 S.Ct. 870, 883, 89 L.Ed. 1252 (1945) ("As we have seen, [the Philippines] are not a part of the United States in the sense that they are subject to and enjoy the benefits or protection of the Constitution, as do the states which are united by and under it."); see *id.* at 673-74, 65 S.Ct. at 881 (*Philippines "are territories belonging to, but not a part of, the Union of states under the Constitution,"* and therefore imports "brought from the Philippines into the United States ... are brought from territory, which is not a part of the United States, into the territory of the United States.").

Accordingly, the Supreme Court has observed, without deciding, that persons born in the Philippines prior to its independence in 1946 are not citizens of the United States. See *Barber v. Gonzales*, 347 U.S. 637, 639 n. 1, 74 S.Ct. 822, 823 n. 1, 98 L.Ed. 1009 (1954) (stating that although the inhabitants of the Philippines during the territorial period were "nationals" of the United States, they were not "United States citizens"); *Rabang v. Boyd*, 353 U.S. 427, 432 n. 12, 77 S.Ct. 985, 988 n. 12, 1 L.Ed.2d. 956 (1957) ("The inhabitants of the Islands acquired by the United States during the late war



with Spain, not being citizens of the United States, do not possess right of free entry into the United States." (emphasis added) (citation and internal quotation marks omitted)).

Petitioner, notwithstanding this line of Supreme Court authority since the Insular Cases, argues that the Fourteenth Amendment codified English common law principles that birth within the territory or dominion of a sovereign confers citizenship. Because the United States exercised complete sovereignty over the Philippines during its territorial period, petitioner asserts that she is therefore a citizen by virtue of her birth within the territory and dominion of the United States. Petitioner argues that the term "the United States" in the Fourteenth Amendment should be interpreted to mean "within the dominion or territory of the United States." Rabang, 35 F.3d at 1459 (Pregerson, J., dissenting); see *United States v. Wong Kim Ark*, 169 U.S. 649, 693, 18 S.Ct. 456, 473-74, 42 L.Ed. 890 (1898) (relying on the English common law and holding that the Fourteenth Amendment "affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country" (emphasis added)); *Inglis v. Sailors' Snug Harbour*, 28 U.S. (3 Pet.) 99, 155, 7 L.Ed. 617 (1830) (Story, J., concurring and dissenting) (citizenship is conferred by "birth locally within the dominions of the sovereign; and ... birth within the protection and obedience ... of the sovereign").

We decline petitioner's invitation to construe *Wong Kim Ark* and *Inglis* so expansively. Neither case is reliable authority for the citizenship principle petitioner would have us adopt. The issue in *Wong Kim Ark* was whether a child born to alien parents in the United States was a citizen under the Fourteenth Amendment. That the child was born in San Francisco was undisputed and "it [was therefore] unnecessary to define 'territory' rigorously or decide whether 'territory' in its broader sense (i.e. outlying land subject to the jurisdiction of this country) meant 'in the United States' under the Citizenship Clause." Rabang, 35 F.3d at 1454. Similarly, in *Inglis*, a pre-Fourteenth Amendment decision, the Court considered whether a person, born in the colonies prior to the Declaration of Independence, whose parents remained loyal to England and left the colonies after independence, was a United States citizen for the purpose of inheriting property in the United States. Because the person's birth within the colonies was undisputed, it was unnecessary in that case to consider the territorial scope of common law citizenship.

The question of the Fourteenth Amendment's territorial scope was not before the Court in *Wong Kim Ark* or *Inglis* and we will not construe the Court's statements in either case as establishing the citizenship principle that a person born in the outlying territories of the United States is a United States citizen under the Fourteenth Amendment. See Rabang, 35 F.3d at 1454. "[G]eneral expressions, in every opinion, are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision." *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 399, 5 L.Ed. 257 (1821) (Marshall, C.J.).

In sum, persons born in the Philippines during its status as a United States territory were not "born ... in the United States" under the Fourteenth Amendment. Rabang, 35 F.3d at 1453 (Fourteenth Amendment has an "express territorial limitation which prevents its extension to every place over which the government exercises its sovereignty."). Petitioner is therefore not a United States citizen by virtue of her birth in the Philippines during its territorial period.

## 12.2 Preamble

**Constitution of September 17, 1787 – Preamble:** *"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure 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."*

The preamble to the Constitution of September 17, 1787 is not actually part of the Constitution itself but serves only as an introduction to explain the purpose of the document. An understanding of the preamble starts with understanding the meaning of the phrase “We the People of the United States.” Key to understanding who the “We the People of the United States” are is to understand the meaning of the term “United States,” as used in the preamble. “People” are the entire body of persons who constitute a nation<sup>38</sup> and a “nation” is a large body of people, associated with a particular territory.<sup>39</sup> Therefore the term “United States,” as used in the Preamble must be geographical. Furthermore, prior to the establishment of “this Constitution,” the “United States,” in a singular geographic context, did not exist. According to the Preamble, one of the stated goals of establishing “this Constitution” was to form “*a more perfect Union*,” which Union was created from the singular geographic “United States” that was created upon the establishment of “this Constitution.” Therefore, the term “United States,” as used in the Preamble, must have a plural geographical context and be a reference to the collective territory of the confederated States united under the Articles of Confederation. Only citizens of a confederated State could participate in the internal politics of the State. “We the people of the United States” are the collective citizens of the confederated States which participated in Conventions of nine States which established the Constitution of September 17, 1787 between the States which ratified the Constitution.

Though rather encrypted, the Preamble is helpful in explaining two things.

- 1) The establishment of “this Constitution”, the Constitution of September 17, 1787, created the United States Union, referred to as “a more perfect Union” in the Preamble.
- 2) “This Constitution” or system of government, the Government of the United States, established upon the ratification and adoption of “this Constitution,” is for use by the United States of America government for administering the United States Union: “*We the People of the United States, in Order to form a more perfect Union . . . do ordain and establish this Constitution for the United States of America.*”

The fact that the United States Union was created for the United States of America government for purposes of administration the United States Union, the territory owned by the United States of America, proves that the Articles of Confederation was not repealed or replaced by the establishment of “this Constitution.”

### **12.3 Article I – The Legislative Branch**

The legislative branch of the Government of the United States consists of the Congress of the United States, the President of the United States, the Vice President of the United States, the Chief Justice, and the legislatively created courts.

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<sup>38</sup> **Random House Webster’s Unabridged Dictionary - people:** 4. “*the entire body of persons who constitute a community, tribe, nation, or other group by virtue of a common culture, history, religion, or the like.*”

<sup>39</sup> **Random House Webster’s Unabridged Dictionary - nation:** 1. “*a large body of people, associated with a particular territory, that is sufficiently conscious of its unity to seek or to possess a government peculiarly its own*”

### **12.3.1 Article I Section 1 – Congress of the United States**

**Constitution of September 17, 1787 – Article I Section 1:** *“All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.”*

#### **12.3.1.1 “All Legislative Power Herein Granted”**

Under Article I Section 1, *“All legislative Powers herein granted shall be vested in a Congress of the United States.”* Article I Section 8 Clause 17 is a grant of power to *“exercise exclusive legislation”* over the Seat of Government of the United States and over the “United States” Union. The “United States” is described in Article I Section 8 Clause 17 as the territory located within the exterior borders of the ratifying confederated States to be purchased by the consent of the State legislature. The Seat of Government of the United States consists of territory ceded to the United States of America. The other grants of legislative power within the Constitution of September 17, 1787 are found in Article IV Section 3 Clause 2 to *“make all needful rules and regulations respecting the Territory or other Property belonging to the United States,”* and Article I Section 8 Clause 18 to *“make all laws necessary for carrying into execution to foregoing powers. But the only legislation powers connected with territory are found in Article I Section 8 Clause 17 and Article IV Section 3 Clause 2. Therefore, territorial jurisdiction of Congress of the United States is limited to the territory owned by or ceded to the United States of America.*

The governments of the ratifying States could not have delegated any legislative power over the “free inhabitants” of the confederated States because they had none to delegate. However, through the exercise of the proprietary/military powers of the United States of America, inhabitants of territory owned by or ceded to the United States of America could be taxed and regulated.

#### **12.3.1.2 Indefinite Congress of the United States**

A Congress of the United States is a two-house Congress consisting of a Senate and House of Representatives. Per Article I Section 2 Clause 1, members of the House of Representatives are elected every two years. Therefore, there is a new “Congress of the United States” every two years. That is why the indefinite article of “a” precedes the noun “Congress of the United States” in Article 1 Section 1. To identify any one particular Congress of the United States, each succeeding Congress of the United States is numbered sequentially, beginning with one for the First Congress of United States which convened on March 4, 1789.

#### **12.3.1.3 Indefinite Senate and House of Representatives**

There is only one Senate and one House of Representatives expressly mentioned in the Constitution of September 17, 1787. But apparently, the framers of the Constitution were anticipating a possible alternative Senate and House of Representatives. As such, the indefinite article of “a” precedes the noun “Senate and House of Representatives” in Article I Section 1. Per Article VI Clause 3, *“the Senators and Representatives before mentioned”* must take an oath of office that binds them *“to support this Constitution”* in order to fill their offices under the authority of the Constitution of September 17, 1787. Article I Section 1 is worded to allow, on failure to adopt the Constitution of September 17, 1787,

an alternative Senate and House of Representatives to comprise a “Congress of the United States.” The only other possible alternative would be a Senate and House of Representative under the authority of the Articles of Confederation. Upon the failure to adopt the Constitution of September 17, 1787, Article I Section 1 authorized the creation of a two-house Congress of the United States under the authority of the Articles of Confederation. A Congress of the United States consisting of the Senate of the United States of America and the House of Representatives of the United States of America would not be bound to obey the Constitution of September 17, 1787.

### **12.3.2 Article I Section 2 – House of Representatives**

The House of Representative is one of the two houses that Congress of the United States is comprised of. Members of the House of Representatives represent the interests of the electors from the several federated States of the United States Union during the legislative process of the Congress of the United States.

#### **12.3.2.1 Art. I:2:1 – Composition and Election of Members**

**Constitution of September 17, 1787 – Article I Section 2 Clause 1:** *“The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.”*

##### **12.3.2.1.1 Congress of the United States is a two-year Congress**

Members of the House of Representatives are “*chosen every second year by the People of the several States.*” As the members of House of Representatives is elected every two years and is one of the two components which comprise a “Congress of the United States,” there is a new “Congress of the United States” every two years. The Congress of the United States, in contrast to the Confederation Congress, exists for a limited time, measured in two-year increments.

Only the federated States of the United States Union are united by their members in the Congressional House of Representatives. “The several States” of Article I Section 2 clause 1 are the several federated States of the United States Union, States consisting exclusively of territory owned by the United States of America.

##### **12.3.2.1.2 Federal Citizens Under the Constitution of September 17, 1787**

The United States, as a Union, is composited State consisting of the federated States of the United States Union and capable of having its own citizens. Under Article I Section 8 Clause 4, Congress is expressly permitted to establish “*an uniform Rule of Naturalization*” throughout the United States. Per Article I Section 2 Clause 2, the requisites of a Representative include being a 7-year “Citizen of the United States” and, per Article I Section 3 Clause 3, the requisites of a Senator include being a 9-year “Citizen of the United States.” In a republic State, not only must the elected government officers be citizens, but so must the electors who elect the government officers. Therefore, electors of the Senators and Representative must also be “Citizens of the United States.”

##### **12.3.2.1.3 Deceptive Change in the Meaning of “Citizens of the United States”**

The Northwest Ordinance of July 13, 1787 is fairly clear that prior to the establishment of the Constitution of September 17, 1787, the phrase “citizen of the United States” was a reference to a citizen of one of the confederated States of the United States of America Union. A “citizen of the United States,” under the Northwest Ordinance, owes allegiance primarily to its State government and secondarily to the United States of America government. Also, a “citizen of the United States,” under the Northwest Ordinance, is domiciled in one of the confederated States, but not on federal land and therefore, is not subject to the federal laws of the United States of America government.

Just a mere 2 months after the ordainment of the Northwest Ordinance, the Constitution of September 17, 1787 was presented to the Confederation Congress for ratification by the States. The Constitution of September 17, 1787 uses the same term of “Citizen of the United States.” But, in the Constitution of September 17, 1787, the term “Citizen of the United States” has a different meaning and means a citizen of the United States of America government who owes allegiance to the United States of America but not to a state government. “Citizens of the United States,” under the Constitution of September 17, 1787, are domiciled on territory owned by or ceded to the United States of America and are therefore, subject to the federal laws of the United States of America government. The manner in which the new meaning for the term “Citizen of the United States” is implied in the Constitution of September 17, 1787 is so vague that most Americans never realized that the meaning had changed. But the Naturalization Act March 26, 1790, clarifies that after the establishment of the Constitution of September 17, 1787, the meaning of the term “citizen of the United States” means a citizen of the United States of America government, a citizenry domiciled on territory owned by the United States of America and therefore, subject to the laws of the United States of America. (See the section concerning Article I Section 8 Clause 4 for details).

In the Constitution of September 17, 1787, the phrase “Citizen of the United States” appears three times: Article I Section 2 Clause 2, Article I Section 3 Clause 3 and Article II Section 1 Clause 5. In each of the three instances of the phrase, the word “Citizen” is capitalized to alert the reader that the phrase has a new meaning implied under the Constitution, different from the meaning implied under the Northwest Ordinance. Other than alerting the reader of the new meaning of the phrase implied under the Constitution of September 17, 1787, there is no significance in whether or not the word “Citizen” is capitalized. All occurrence of the phrase “Citizen of the United States” found in the State Constitutions, constitutions which were ratified pursuant to the Constitution of September 17, 1787, the word “citizen” spelled with a lower case “c.” Also, in the Naturalization Act of 1790, the word “citizen” found in the phrase “citizen of the United States” is spelled using lower case “c.”

#### **12.3.2.1.4 Voting Became a Deceptive Tool to Recruit Federal Citizens**

This author alleges that the subtle and vague manner in which the meaning of “citizen of the United States” was changed under the Constitution of September 17, 1787 was part of a scheme by the framers of the Constitution to deceive Americans into giving up their freedoms by confusing Americans over their citizenship status. The confusion over citizenship was amplified by the new context sensitive meaning for the term “United States” that was introduced in the Constitution of September 17, 1787. The term “United States,” in a plural geographical context, had always meant the confederated States united under the Articles of Confederation. But after the ratification of the Constitution of September 17, 1787, the term “United States,” in a singular geographical context, meant the United States Union, the territory owned by or ceded to the United States of America. Americans were fooled into declaring that they were



in were in the “United States,” in a singular sense, (the federated States) when in fact they were in the “United States,” in a plural sense, (the confederated States, aka the United States of America). They were not aware of multiple context sensitive meanings for the term “United States.”

The citizenship of an American is determined by where that American has voluntarily consented to establish his/her domicile as opposed to remaining “free inhabitant” of his confederated State. Any American who voluntarily consents to establish his/her domicile in the United States Union is a “citizen of the United States.” After ratification of the Constitution of September 17, 1787, citizens of the confederated States, who were already accustomed to voting for the state officers in their State government, were being presented at the election polls with a choice of candidates for the Congressional House Representative. Any citizen of the confederated States who participated in voting for a candidate of the Congressional House of Representatives created strong prima facie evidence of having voluntarily consented to a domicile within the United States and thereafter, was presumed to be a “citizen of the United States.”<sup>40</sup> The tricked voter never resided in the United States concurrent with the intent of making the United States his permanent resident and therefore, never actually became a “citizen of the United State.”<sup>41</sup> But, not realizing how they were deceived into giving up their freedoms, the deceived voter was not able to rebut their new presumed status of “citizen of the United States.” Essentially, by participating in the political process of the United States Union, citizens of a confederated States and “free inhabitants” were converted to “citizens of the United States,” subjected to the federal laws of the United States. Today, the requisites to vote require a voter to be a “citizen of the United States.” Therefore, registering as a voter or voting creates strong primary prima facie evidence by which a person is presumed to have consented to a domicile in the United States Union.

#### **12.3.2.1.5 State Citizens Under the Constitution of September 17, 1787**

Per Article IV Section 4, every State of the United States Union must have a republican form of government. A republic form of government suggests that each State government had their own state citizens/electors to elect the members of their state legislature to represent the electors during the enactment of State laws. Whether or not the electors of the most numerous branch of a State legislature are expressly required to be state citizens or citizens of the United States can only be determined by looking at the State Constitutions. Prior to the 14<sup>th</sup> Amendment to the Constitution of September 17, 1787, the State Constitutions were not consistent on this matter. For example, the 1818 Constitution for the State of Connecticut and the 1844 Constitution for the State of New Jersey both expressly required the electors of the state legislature to be “citizens of the United States.” But, the 1798 Constitution for the State of Georgia and the 1830 Constitution for the State/Commonwealth of Virginia both expressly required the electors of their state legislature to be state citizens. Regardless of what a State Constitution

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<sup>40</sup> **Title 28 Corpus Juris Secundum, Domicile §48. Voting, Holding Office, Serving on Jury, and Paying Taxes** - Exercise of the elective franchise is important evidence of domicile, and may be the highest, but is not conclusive. Other factors of some weight, but not conclusive, are failure or refusal to vote, holding a local office, service on a jury, and payment of taxes.

<sup>41</sup> **Title 28 Corpus Juris Secundum, Domicile §11. In General** – For the acquisition of a domicile of choice, actual residence or physical presence in a particular locality and the intent to remain are required, or must concur. The intent to remain may be formed after removal to the new location.



expressly required of the electors of the most numerous branch of a State legislature, any elector of a Congressional Representative in the State would have been simultaneously a citizen of the United States and a citizen of a federated State due to the fact that, under Article I Section 2 Clause 1, Electors of Congressional Representatives State were required to “*have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.*” The following paragraph further explains why the previous sentence is true.

Citizens are domiciled in the state of their citizenship and a person can only one domicile at any one time, which ordinarily would restrict a person to having only one citizen at any one time. However the United States Union, as a composite State, consists of other States, the federated States of the United States Union. So if a person is a “citizen of the United States,” their domicile is in the United States and, simultaneously in one of the federated States which comprise the United States Union. Hence a “citizen of the United States” has dual citizenship; they are a federal citizen of the United States of America government and a citizen of the federated State in which they are domiciled. Therefore, any requirement that electors of a State’s legislatures be “citizens of the United States” implies that they are also citizens of the federated State in which they are domiciled. Article IV Section 2 Clause 1 of the Constitution of September 17, 1787 entitles the citizens of each State to all privileges and immunities of citizens of the several States, which proves that the federated States of the United States Union had their own state citizens. “Citizens of the United States” cast their votes for Congressional Representatives as citizens of the United States of America government, and cast their votes for State Legislatures as citizens of their federated State.

**Random House Webster’s Unabridged Dictionary - republic, n.**

1. “*a State in which the supreme power rests in the body of citizens entitled to vote and is exercised by representatives chosen directly or indirectly by them.*”

**1818 Constitution for the State of Connecticut – Article 6 Section 1.** “*All persons who have been, or shall hereafter, previous to the ratification of this Constitution, be admitted freeman, according to the existing laws of this State, shall be electors.*

*Sec. 2. Every white male citizen of the United States, who shall have gained a settlement in this state, attained the age of twenty-one years, and resided in the town in which he may offer himself to be admitted to the privilege of an elector, at least six months preceding, and have a freehold estate of the yearly value of seven dollars in this state;”*

**1844 Constitution for the State of New Jersey - Article 2 Section 1.** “*Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and of the county, in which he claims his vote five months, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be elective by the people”.*

**1798 Constitution for the State of Georgia – Article IV Section 1.** “*The electors of members of the general assembly shall be citizens and inhabitants of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they may have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided six months within the county”.*

**1830 Constitution for the State of Virginia – Article 3 Section 14.** *“Every white male citizen of the Commonwealth, resident therein, aged twenty-one years and upwards, being qualified to exercise the Right of Suffrage according to the former Constitution and laws”.*

**12.3.2.2 Art. I:2:2 – Requisites of Representatives; No Common-Law in United States**

**Constitution of September 17, 1787 – Article I Section 2 Clause 2:** *“No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.”*

A Representative has the requisites to have attained the age of 25 years and to have been a 7-year “Citizen of the United States.” To be a 7-year citizen at the age of 25 would mean that anyone who did not acquire the “Citizen of the United States” citizenship at birth would have to acquire it at the age of 18, at the latest. But a person may become citizen of their choice only if they have already attained the age of majority.

An important distinguishing characteristic between the confederated States and federated States is the age of majority. The confederated States of the United States of America have the English common-law system of law where the age of majority is 21 years. Therefore, requisite of a Representative serves the important purpose of notifying the reader that the federated States of the United States Union must have a written system of law where the age of majority at 18 years would be possible. An American, who is aged 18 years, who did not acquire the “Citizen of the United States” citizenship at birth, would acquire it upon establishing their permanent residence (domicile) in a federated State of the United States Union. Thereafter, upon reaching the age of 25, if the American successfully campaigned in the State in which he was chosen and inhabited, the American would qualify to be a Representative. The second militia act of May 5, 1792, 1 Stat. 271, confirms eighteen year old Citizens of the United States. The State in which a Representative was chosen would be one of the federated States of the United States Union. Each Representative is required to be a 7-year “Citizen of the United States” and, when elected, an inhabitant of the federated State in which he was chosen.

**12.3.2.3 Art. I:2:3 – Apportionment of Representatives and Direct Taxes**

**Constitution of September 17, 1787 – Article I Section 2 Clause 3:** *“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumerations shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.”*

Article I Section 2 Clause 3 provides that “*Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers.*” The “Numbers” used for apportionment shall be determined by adding the whole numbers of free Persons and three fifths of “all other Persons.” “Persons” are “Citizens of the United State” residing with the borders of the confederated State and “all other Persons” are slaves residing therein. The direct tax apportioned among the States of “this Union” according to their numbers of persons is a direct capitation tax on people apportioned by the Confederation Congress.

#### **12.3.2.3.1 State of the “United States” Become United**

Article I Section 8 Clause 1 confirms the taxation power of the Confederation Congress, but restricts all indirect taxes to be uniform throughout the “United States.” Article I Section 2 Clause 3 further restricts direct taxes to be apportioned the several States which may be included within “this Union.” The several States within “this Union” must be comprised exclusively of territory owned by or ceded to the United States of America because the United States of America derives its power of taxation from its proprietary/military power, which is limited to territory owned by or ceded to the United States of America. Together, both Article 4 of the Northwest Ordinance and Article I Section 8 Clause 17 of the Constitution of September 17, 1787 prove that each State of “this Union” is a partition of the “United States” and consists of the collective “all Places” purchased within the exterior borders of a confederated State by the consent of the State’s legislature.

Article I Section 2 Clause 3 apportions Representatives among the States of “this Union” and sets the initial entitled number of Congressional Representatives for each State of the United States. The State’s Congressional Representatives united the several States of the United States, creating “this Union,” the United States Union.

#### **12.3.2.3.2 Significance in “State of” Prefix**

The name of a confederated State, when NOT prefixed with the phrase “State of,” where the word “State” is capitalized, is a geographical reference to all the territory located within the exterior borders of the confederated State. “California,” “California state,” and the “state of California” all refer to the same confederated State of the United States of America Union. That portion of “California” which is not owned by the United States of America is the portion of the State where the people live.

Contained within the last sentence of Article I Section 2 Clause 3 is a list of all thirteen original confederated States; that list is preceded by the “State of New Hampshire” and followed by just the names of the remaining twelve States. The proper interpretation of that list is that the name of each listed State is to be prefixed with the phrase “State of,” like the first name in the list. Indicated for each of the listed States is the initial number of Representative to which the State is entitled. Since representation is apportioned among the several States of the United States Union, the 13 States listed in the last sentence of Article I Section 2 Clause 3 must be the names of the several federated States of the United States Union, each of which is located within the exterior borders of a confederated State and consisting of the territory therein that is owned by the United States of America.

What can be concluded from Article I Section 2 Clause 3 is that the name of a confederated State, when the name is prefixed with the phrase “State of,” where the word “State” is capitalized and the phrase has a

geographical context, is a reference to the federated State of the United States Union that is located within the exterior borders of the confederated State, consisting of the territory therein that is owned by the United States of America. The “State of California,” a federated State of the United States Union, consists of the territory owned by the United States of America that is located within the exterior borders of “California,” a confederated State of the United States of America Union. Direct taxes are apportioned among the federated States of the United States Union, which includes the “State of California,” but excludes “California.”

The name of a confederated State, when the name is prefixed with the phrase “State of,” where the word “State” is capitalized and the phrase has a political context, is a reference to the State government located within the exterior borders of the confederated State. The “State of California,” in a political context, is a reference to the State government located within the exterior borders of “California.”

In general, the “State of California” governs all the territory located within the exterior borders of its confederated State known as “California” with the power delegated to it by the People, which power does not include the power to tax the People or to regulate to unalienable rights of the People. The “State of California” also governs the federated State known as the “State of California” using its conferred proprietary/military power of the United States of America, which includes to power to tax and regulate the inhabitants of the federated State, but is limited to the “State of California.” The territorial jurisdiction of a government is the territory in which the government can regulate and tax all people, personal property, and privileged activities. The territorial jurisdiction of a State government is limited to the territory located within its exterior borders that is owned by the United States of America and the territorial jurisdiction of the United States of America is limited to the territory owned by or ceded to the United States of America.

#### **12.3.2.3.3 District of Columbia and U.S. Territories Became States of the United States Union**

Upon the ratification of the Constitution of September 17, 1787, only the federated States erected within the exterior borders of the ratifying confederated States had members in the Congressional House of Representatives and therefore, were the only States of the United States Union. Historically, the Seat of the Government of the United States and the U.S. Territories, such as the Northwest Territory or Puerto Rico, had no representation in the Congressional House of Representatives and therefore were not members of the United States Union. However, with the passage of time, all inhabited territories owned by or ceded to the Confederacy would eventually have representation in the Congressional House of Representation, and therefore become members States of the United States Union.

Since the ordination of the Northwest Ordinance, the incorporated organized territories, territories bound for eventual statehood, were permitted one seat in the Confederation Congress, now called the Senate, with the right to debate but not to vote. Then, on March 3, 1817, the one permitted non-voting delegate of each of the incorporated organized territories were moved to the Congressional House of Representation, making those territories members of the United States Union.<sup>42</sup> Today, there are no incorporated organized territories of the United States.

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<sup>42</sup> Act of March 3, 1817, ch. 42, 3 Stat. 363

The territories of the United States not bound for eventual statehood, the unincorporated territories, would begin to acquire representation in the Congressional House of Representatives in the year of 1900. The April 12, 1900 organic Act of Puerto Rico contained provisions for qualified voters of Puerto Rico to elect a non-voting Resident Commissioner to the United States.<sup>43</sup> In 1970, the District of Columbia was authorized to elect a non-voting delegate.<sup>44</sup> The privilege of electing a non-voting delegate was extended to Guam and the U.S. Virgin Islands in 1972, American Samoa in 1978, and the Commonwealth of the Northern Mariana Islands in elections for the 111th Congress in 2008.<sup>45</sup>

#### **12.3.2.3.4 Territorial Jurisdiction of the United States of America Government**

Today, all inhabited U.S. Territories have representation in the Congressional House of Representatives and therefore, are States of the United States Union. As a result, the “United States” is not only the name of the Union created under the Constitution of September 17, 1787, but it is also a designator for the complete territorial jurisdiction of the United States of America.

The territorial jurisdiction of the United States of America government is the United States Union, which currently consists of the 50 federated States, each located within the exterior borders of a confederated State and consisting of the federal land therein; the District of Columbia; and the 5 United States Territories of Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands. Currently, the area of the United States of America Confederacy is 3,531,905 square miles of which 995,312 square miles, or 28%, is territory owned by or ceded to the Confederacy<sup>46</sup>. The United States of America government is the largest land owner in the United States of America Confederacy.

#### **12.3.2.4 Art. I:2:4 – Vacancies**

**Constitution of September 17, 1787 – Article I Section 2 Clause 4:** *“When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.”*

Under Article I Section II Clause 1, Representatives are to be *“chosen . . . by the People of the several States.”* Therefore, when vacancies occur in the representation from any state, the State’s Governor is not allowed to appoint temporary replacements. Instead, the Governor of the state is required, under Article I Section 2 Clause 4, to issue a Writ of Election, calling for a special election to fill the vacancy.

#### **12.3.2.5 Art. I:2:5 – Speakers and Other Officers; Power to Impeachment**

**Constitution of September 17, 1787 – Article I Section 2 Clause 5:** *“The House of Representative shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.”*

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<sup>43</sup> Act of April 12, 1900, ch. 191, 31 Stat. 77, Sec. 39

<sup>44</sup> [CRS Report for Congress on Delegates to the U.S. Congress: History and Current Status](http://sedm.org)

<sup>45</sup> Ibid.

<sup>46</sup> Congressional Research Service, “Federal Land Ownership: Overview and Data”, Report # R42346, February 8, 2012, [www.crs.gov](http://www.crs.gov)

Under Article I Section 2 Clause 5, the House of Representatives shall choose its Speaker and its other Officers. Also, the House of Representatives solely possesses the power to impeach. The Power of Impeachment is the authority to accuse an Office holder of misconduct.

### **12.3.3 Article I Section 3 – Senate**

Revisions to the Articles of Confederation through the ratification of the Constitution of September 17, 1787 included renaming the “United States in Congress assembled” to the “Senate,” thus becoming the Senate of the United States of America. Some of the evidence which prove that the word “Senate” is the name given to Confederation Congress under the Constitution of September 17, 1787 is listed below.

- 1) Per Article V of the Articles of Confederation, the delegates of the Confederation Congress were the State’s representatives chosen by the State’s legislators. The Senators are the State’s new representatives chosen by the State’s legislators.
- 2) The analysis contained hereinafter on Article II Section 2 Clause 2, concerning the power to make treaties and appointments, proves that the word “Senate,” under the Constitution of September 17, 1787, is just a new name for the Confederation Congress.
- 3) The enactment clause, first appearing in statute 1 Chapter 1 on June 1, 1789 and currently found in 1 U.S.C. §101, proves that the Senate is a governmental body created under the authority of the Articles of Confederation. Details of this will be found on the section concerning the effects of the failure to adopt the Constitution.

The Confederation Congress is also still referred to as “Congress” under the Constitution of September 17, 1787, as illustrated below:

- 1) Under Article II Section 1 Clause 4, “Congress” may determine the date for choosing the Presidential Electors and the date for the Presidential Electors to give their vote for the President of the United States of America. The Confederation Congress first exercised this power, by means of its September 13, 1788 resolution, for the first election following the establishment of the Constitution of September 17, 1787.
- 2) Under Article IV Section 3 Clause 2, the “Congress” is confirmed to possess the exclusive right to dispose the territory belonging to the United State of America. On several occasions prior to the ratification of the Constitution of September 17, 1787, the Confederation Congress had reserved for itself the exclusive right to dispose of territory of the United States, beginning with the October 10, 1780 Resolution of the Confederation Congress and again in the Northwest Ordinance.
- 3) Under Article I Section 8 Clause 1, “Congress” is confirmed to possess the power of taxation over territory owned by or ceded to the United States of America. The Confederation Congress first ordained its power of taxation under Article 4 of the Northwest Ordinance.
- 4) Under Article III Section 1, the “Congress” is confirmed to possess the power of ordainment. The Confederation Congress first demonstrated its power of ordainment over territory owned by or ceded to the United States of America when it ordained the district government of the Northwest Territory.

#### **12.3.3.1 Art. I:3:1 - Composition; Election of Senators**



**Constitution of September 17, 1787 – Article I Section 3 Clause 1:** *“The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.”*

Article I Section 3 Clause 1 sets the composition of the Senate to two senators from each State government, chosen by the Legislature thereof, for six years. Each Senator has one vote.

The Senate is one of the two houses of the Congress of the United States created to legislatively govern the United States Union. Therefore the word “State,” as used in Article I Section 3 Clause 1 is a reference to the federated States of the United States Union.

Each Senator fills a second role in representing one of the confederated States in the Confederation Congress. A federated States is erected within the exterior borders of each confederated States, consisting of the territory therein that is owned by the United States of America. A federated State is different, but is not separated, from its associated confederated State and overlaps the confederated States. Therefore, a Senator from a federated State is simultaneously from the confederated State in which the federated State is erected.

#### **12.3.3.2 Art. I:3:2 – Classifications of Senators**

**Constitution of September 17, 1787 – Article I Section 3 Clause 2:** *“Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.”*

Article I Section 3 Clause 2 divided the Senators elected in consequence of the first Election as equally as may be into three Classes. Only one Class of Senators, one third of the Senators, is to be chosen every two years for a six year term. Staggering the terms of office did not change the fact that the Senators are the exclusively representatives of the confederated States. The Staggered terms of office of the Senate means that the Senate of the United States of America, also known as the Confederation Congress, has been in continual session ever since the First Congress convened on March 4, 1789.

#### **12.3.3.3 Art. I:3:3 – Qualification of Senators**

**Constitution of September 17, 1787 – Article I Section 3 Clause 3:** *“No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.”*

A Senator has the requisite to have attained the age of 30 years and to have been a 9-year “Citizen of the United States.” To be a 9-year citizen at the age of 30 would mean that anyone who did not acquire the “Citizen of the United States” citizenship at birth would have to acquire it at the age of 21, at the latest. An American, who is aged 18 to 21 years, who did not acquire the “Citizen of the United States”

citizenship at birth, would acquire it upon establishing their permanent residence (domicile) in the United States. Thereafter, upon reaching the age of 30, if the American successfully campaigned in the State in for which he was chosen and inhabited, the American would qualify to be a Senator. The State for which a Senator was chosen would be one of the federated States of the United States of America Union. Each Senator is required to be a 9-year “Citizen of the United States” and, when elected, an inhabitant of the federated State for which he was chosen.

#### **12.3.3.4    Art. I:3:4 – VPOTUS, a Legislative Branch Employee of the Senate**

**Constitution of September 17, 1787 – Article I Section 3 Clause 4:** *“The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.”*

Article I Section 3 Clause 4 makes the Vice President of the United State the “President of the Senate,” an officer of the Senate. The only constitutional duty of the Vice President of the United States is to break any tied votes in the Senate, as the “President of the Senate.” According to the application of the separation of powers doctrine, the duty to break a tie vote in the Senate makes the Vice President of the United States a legislative branch officer, not an executive branch officer as many people incorrectly believe.

The power to vote “yea” or “nay” does not qualify as the exercise of discretionary power. The Vice President of the United State is an Officer without discretionary power, which makes that Officer an employee. That the Vice President of the United States is an employee is further confirmed by the absence of any requisites to hold that Office and the absence of a definite term of employment. All of the above makes the Vice President of the United State an at-will employee of the legislative branch, subject to termination by Congress via an Article I impeachment.

#### **12.3.3.5    Art. I:3:5 – President Of the United State, a Legislative Branch Officer of Senate**

**Constitution of September 17, 1787 – Article I Section 3 Clause 5:** *“The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.”*

Article I Section 3 Clause 5 confirms that the Article I Section 3 Clause 4 “President of the Senate” is an Office of the Senate and explicitly identifies the “President pro tempore” as one of the “*other Officers*” of the Senate. That the Senate shall choose a “President pro tempore” in the absence of the Vice President of the United States, or when the Vice President of the United States shall exercise the Office of the President of the United States, means both the President and Vice President of the United States are “*other Officers*” of the Senate. Through the application of the separation of powers doctrine, both the President and Vice President of the United States must be legislative branch Officers of the Senate. Most people incorrectly believe that the President of the United States is an executive branch officer of government when in fact he is a legislative branch officer. Both the President and Vice President of the United States are non-elected legislative branch Officers of the Senate, chosen by the Senate under Article I Section 3 Clause 5.

#### **12.3.3.5.1 The Senate Chooses the President Elect as Their POTUS Via Statutes**

Ever since the First Congress convened in 1789, the Senate has been consistently choosing the persons elected to President and Vice President of the United States of America to fill their Offices of President and Vice President of the United States respectively. Today, the Senate's choice of the persons to fill their Offices of President and Vice President of the United States, is expressed in Section 15 of Title 3 of the United States Code, which has been enacted into positive law and expressly provides that a successful count of the electoral votes results in an "elected President and Vice President of the United States." The deceptive code found in 3 U.S.C. §15 misleads most of the lay persons reading it into incorrectly concluding that the Electoral College election is for the President and Vice President of the United States rather than the President and Vice President of the United States of America respectively. Regardless of what 3 U.S.C. §15 says, Article II Section 1 Clauses 1 through 3 of the Constitution of September 17, 1787 clearly establishes that the President and Vice President of the United States of America are elected by the State Presidential Electors, now called Electoral College. The only conclusion that can be made from the above facts is that the Senate has formalized, through 3 U.S.C. §15, their choices for the persons fill their Offices of the President and Vice President of the United States. Per 3 U.S.C. §15, the persons elected to President and Vice President of the United States of America are chosen to fill the Offices of the President and Vice President of the United States respectively. Through 3 U.S.C. §15, the Senate has combined the Office of President of the United States with the Office of President of the United States of America into the same single person, confusing most Americans into incorrectly thinking that the "United States" and the "United States of America" are one and the same.

#### **12.3.3.5.2 Choice of the President Elect as POTUS Impossible Under Adopted Constitution**

The below section entitled "Article II – Executive Branch" explains why an adopted Constitution of September 17, 1787 would require the Article II Section 1 Clause 5 "Office of President" to be filled by the same person elected to the Office of President of the United States of America.

Only by subscribing the binding oath of office contained in Article VI Clause 3, the oath that the person who fills the "Office of President" is expressly required to take, qualifies as adopting "this Constitution," the Constitution of September 17, 1787. The oral non-binding oath of the POTUS does not qualify as adopting "this Constitution." The person who fills the Article II Section 1 Clause 5 "Office of President", the "President" is an executive officer under the authority of the Constitution of September 17, 1787, while the "President of the United States" is a legislative officer under the authority of the Constitution of September 17, 1787. Applying the separation of powers doctrine requires that the person who fills the "Office of President" never be the same person who fills the Office of President of the United States. Since the President Elect must fill the Office of President in order to adopt "this Constitution," under an adopted Constitution of September 17, 1787, the President of the United States of America would not be able to lawfully fill the Senate's legislative branch Office of President of the United States.

#### **12.3.3.6 Art. I:3:6 – Impeachment Trials; Chief Justice is a Legislative Branch Employee**

**Constitution of September 17, 1787 – Article I Section 3 Clause 6:** *"The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation."*

*When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the concurrence of two thirds of the Members present.”*

The next three sub-sections provide details on impeachment trials and the Chief Justice.

#### **12.3.3.6.1 Impeachment Trial**

Impeachment is the legislative process that can result in the removal from Office of any Officer of the government. Under the un-adopted Constitution, impeachment is just a fancy name for getting fired from a real good government job. Under Article I Section 3 Clause 6, and the Senate solely possesses the power to try all impeachments. Senators take an oath before they try a legislative impeachment and, because impeachment is a legislative process, the exact wording of the oath is left to Congress. If an Office holder is accused of some official misconduct and does not resign from his Office, then the Senate will act like judges and try the impeachment.

There are two forms of Constitutional impeachment: Article I and Article II. An Article I impeachment is intended to manage employees of the Confederation Congress. No specific charge of wrong doing is required of Article I impeachments. However, when the President of the United States is tried, the Chief Justice must preside. The President of the United States is subject to easy impeachment because he, the Vice President of the United States and the Chief Justice are the only employees named in the Constitution of September 17, 1787. As employees, they should be easy to replace. Firing the President of the United States is supposed to be as easy as firing any other employee who is not working out.

An Article II Section 4 impeachment is restricted to the President of the United States of America, the Vice President of the United States of America, and all other civil Officers of the United States of America Confederacy government. Article II impeachment requires a legal basis for charges, because the persons charged are officers of the United States of America. Officers of the United States of America who are convicted of Treason, Bribery, or other High Crimes and Misdemeanors” may be impeached under Article II Section 4. One of the clear distinctions between the Office of the President of the United States and the Office of the President of the United States of America is the two different impeachment processes to which they may become subjected.

#### **12.3.3.6.2 Chief Justice is a Legislative Branch Employee of the Senate**

The only constitutional duty of the Chief Justice is to preside at the impeachment of the President of the United States per Article I Section 3 Clause 6. Impeachment is a legislative process that is described as a non-judicial process in Article I Section 3 Clause 7. The duty to preside at the impeachment of the President of the United States makes the Chief Justice a non-judicial officer and a legislative officer limited to legislative duties. The Chief Justice has little or no discretion as to how he will perform his duty and he has no term of office or qualifications. All of the above makes the Chief Justice an at-will employee of the Confederation Congress subject to termination by Congress via Article I impeachment.

#### **12.3.3.7 Art. I:3:7 Judgment in Cases of Impeachment; Punishment on Conviction**

**Constitution of September 17, 1787 – Article I Section 3 Clause 7:** *“Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and*

*enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to law.”*

Per Article I Section 3 Clause 7, the impeachment and the trying of an impeachment is not a judicial process, but rather is only a legislative process. The impeachment process shall not extend further than to removal from Office and the disqualifications to hold any office of trust or profit under the United States of America government. Those convicted of impeachment shall nevertheless be liable and subject to judicial Indictment, Trial, Judgment and Punishment, according to law.

### **12.3.4 Article I Section 4 – Congressional Elections & Sessions**

Article I Section 4 contains two clauses concerning the Congressional elections and the minimal sessions of the Congress of the United States.

#### **12.3.4.1 Art. I:4:1 – Time, Place, and Manner of Holding Elections**

**Constitution of September 17, 1787 – Article I Section 4 Clause 1:** *“The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.”*

Article I Section 4 Clause 1 makes each State legislature primarily responsible for prescribing the times, places and manner for holding the election of the congressional Senators and Representatives. However, the Congress may at any time by law override the State legislation concerning the chosen times and manner of holding the elections of the Congressional Senators and Representatives.

“The Congress,” of Article I Section 4 Clause 1, is the two-house Congress of the United States, consisting of a Senate and House of Representatives. The Congress of the United States is a part of the Government of the United States. Only the Congress of United States makes law for the Government of the United States.

#### **12.3.4.2 Art. I:4:2 – Minimal Sessions of Congress**

**Constitution of September 17, 1787 – Article I Section 4 Clause 2:** *“The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.”*

Article I Section 4 Clause 2 fixes an annual date upon which Congress of the United States must assemble. The phrase “the Congress,” as used in Article I Section 4 Clause 2, is referenced by the pronoun “they” in the clause “unless they shall by law appoint a different Day.” Only the Congress of United States makes law for the Government of the United States. Therefore, “the Congress,” as used in Article I Section 4 Clause 2, must be a reference to the Congress of the United States. Since the Congress of the United States is comprised of a Senate and House of Representatives, when the Congress of the United States assembles, so does the Confederation Congress.

### **12.3.5 Article I Section 7 – Bills, Orders and Votes of the United States Congress**

Article I Section 7 describes the procedure by which Bills are made into Law and the procedure by which Orders, Resolutions and Votes of Congress are brought into effect. The described procedures involve the two-house Congress of the United States and the President of the United States. All the specific constitutional duties of the President of the United States pertain to these procedures and involve the exercise of non-discretionary powers, revealing that the President of the United States is a legislative branch employee.

#### **12.3.5.1 Art. I:7:1 – Special Treatment on Bills of Revenue**

**Constitution of September 17, 1787 – Article I Section 7 Clause 1:** *“All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.”*

Article I Section 7 Clause 1 requires that all Bills for raising Revenue originate in the House of Representatives, never in the Senate. But the Senate may propose or concur with amendments as on other Bills. The Senate may also withhold passage of any tax Bills by withholding the required votes. This places the Senate in control of deciding which tax Bills can become tax laws.

#### **12.3.5.2 Art. I:7:2 – All Bills**

**Constitution of September 17, 1787 – Article I Section 7 Clause 2:** *“Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the **President** within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.*

##### **12.3.5.2.1 The Procedure by Which All Bills are Made into Local Law**

Article I Section 7 Clause 2 describes the specific procedure by which all Bills are made into Law, which involves both houses of the Congress of the United States and the President of the United States. Clearly the abbreviation of “President” appearing in Article I Section 7 Clause 2 is a reference to the President of the United States and should not be confused with the person who fills the Article II Section 1 Clause 5 “Office of President.”

##### **12.3.5.2.2 President of the United States is a Legislative Branch Employee of the Senate**

Article I Section 7 Clause 2 charges the President of the United States with the specific constitutional duty to either approve or return all Bills having passed both houses of the Congress of the United States. According to the application of the separation of powers doctrine, the duty to approve or return all Bills



having passed both houses of Congress makes the POTUS a legislative branch officer, not an executive branch officer as many people incorrectly believe.

Article I Section 7 of the Constitution imposes a duty on the President of the United States by stating that he ***“shall sign”*** a Bill, if approves it and ***“shall return it,”*** if he objects. No allowance for discretion is provided in imposition of the duties of the POTUS. The POTUS is a legislative Officer with no capacity of ministerial discretion in the exercise of a governmental power, making the POTUS an employee. That the POTUS is an employee is further confirmed by the absence of requisites to hold that Office and the absence of a definite term of employment. Article I Section 3 Clause 5 reveals that the POTUS is specifically a non-elected Officer of the Senate, chosen by the Senate. Article I Section 3 Clause 6 confirms the POTUS may become subject to the Article I impeachment process. The Article II Section 1 Clause 8 non-binding oral oath of the POTUS confirms that the POTUS is not an Article VI Clause 3 officer bound “to support this Constitution.”

Any person chosen by the Senate to fill the office of the President of the United States, who accepts that office by taking the Article II Section 1 Clause 8 oath of office becomes the President of the United States, the chief administrator for the territory owned by or ceded to the United States of America. If the President of the United States doesn’t do a good job, Congress can fire him by an Article I impeachment, for any reason or for no reason, provided the Chief Justice presides at his trial, making his employment at the will of Congress.

#### **12.3.5.3    Art. I:7:3 – Orders, Resolutions and Votes of the Congress of the United States**

**Constitution of September 17, 1787 – Article I Section 7 Clause 3:** *“Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.”*

Article I Section 7 Clause 3 describes the procedure to bring into effect all orders, resolutions and votes of the Congress of the United States. The described procedure is the same as the procedure used to transform Bills into Law, with the POTUS having the same duties with no capacity of ministerial discretion in the exercise of a governmental power, confirming that the POTUS is a legislative branch employee.

#### **12.3.6    Article I Section 8 – The “Enumerated Powers”**

Article I Section 8 enumerates the powers held by the Confederation Congress. A few of the international sovereign powers previously exercised by the Confederation Congress are now exercised by the President of the United States of America and are therefore, described in the section concerning Article II of the Constitution of September 17, 1787. This section will identify the time when each enumerated power was first granted.

##### **12.3.6.1    Division of Territorial Powers over the United States**

Territorial powers are powers for regulating and taxing the inhabitants, property and privileged activities in some specific territory. The exercise of territorial powers has a territorial limitation that is referred to as the territorial jurisdiction of the pertinent government. The Northwest Ordinance established that the proprietary/military power of the United States of America is the basis for the territorial jurisdiction of the United States of America. As such, the exercise of territorial powers by the United States of America is limited to the territory owned by or ceded to the United States of America.

Under Article I Section 8 Section 17, the State governments granted to the United States of America the power to exercise exclusive legislation over the United States, extending the proprietary power of the United States of America to the United States. Prior to the ratification of the Constitution of September 17, 1787, under Article 4 of the Northwest Ordinance, the United States of America government had conferred to the several confederated States concurrent jurisdiction over the federated State of the United States Union to be erected within the exterior borders of their confederated State.

Though the United States of America has the power to exercise exclusive legislation over the United States, it claims exclusive legislative authority only for the territorial powers enumerated in Article I Section 8 of the Constitution of September 17, 1787. Therefore, the State governments are authorized, through Articles 4 of the Northwest Ordinance, to claim in their State constitutions the legislative power in the remainder of the “territorial” domain of their federated State of the United States Union. The popular belief that the State legislatures somehow get legislative power from the Tenth Amendment to the Constitution of September 17, 1787 is just plain incorrect.

The territorial powers which are enumerated under Article I Section 8 serve to define the partitioning of territorial power over the United States between the United States of America government and the several State governments. The partitioning of territorial powers over the United States means that the States of the United States Union are federated States, as oppose to the confederated States of the United States of America Union where the United States of America government has no territorial powers over the people and internal affairs of the confederated States.

Upon ratification of the Constitution of September 17, 1787, the United States of America government would take an additional role of functioning as the federal government for the federated States of the United States Union. However, the United States of America would also continue to function as the confederal government for the confederated States of the United States of America Union, representing the confederated States on the international stage.

Listed below are the territorial powers over the United States which are enumerated under Article I Section 8, and therefore claimed by the United States of America government.

- 1) Article I:8:1 – To tax (limited to the United States).
- 2) Article I:8:3 – To regulate commerce among the several States (limited to the several federated States of the United States Union).
- 3) Article I:8:4 – To establish uniform rules of naturalization & laws on Bankruptcy throughout the United States.
- 4) Article I:8:8 – To Promote the Progress of Science and Useful Arts (limited to the United States).

- 5) Article I:8:15 – To Call Forth the Militia to Execute the Laws of the United States of America (enforcement is limited to persons with a nexus to the United States).
- 6) Article I:8:17 – To Exercise Exclusive Legislation over the United States

#### **12.3.6.2 International & National Powers of the United States of America Government**

Upon the ratification of the Constitution of September 17, 1787, the United State was created from some of the territory of the confederated States, States which had previously granted all international and national sovereign powers to the United States of America. Therefore, at the time of ratification, the United States of America already possessed the international and national sovereign powers enumerated under Article I Section 8, as it relates to the United States. As the central federal government of the United States Union, the United States of America government exercises the same international sovereign powers in representing the United States as it does while acting as the confederal government representing the confederated States on all international issues. However, upon the ratification of the Constitution of September 17, 1787, the Articles of Confederation were amended to add a President of the United States of America, who exercises some of the sovereign international powers that were previously exercised by the Confederation Congress.

Relative to the federated States, the United States of America government exercises the same national sovereign powers as it exercises relative to the confederated States. The enumeration of international and national sovereign powers under Article I Section 8 serves only to confirm the powers already possessed by the United States of America.

#### **12.3.6.3 Art. I:8:1 – The Power to Tax**

**Constitution of September 17, 1787 – Article I Section 8 Clause 1:** *“The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all duties, Imposts and Excises shall be uniform throughout the United States;”*

The Confederation Congress first ordained its power to tax the inhabitants of territory owned by or ceded to the United States of America under Article 4 of the Northwest Ordinance. Article I Section 8 Clause 1 confirms that the power of the Confederation Congress to lay and collect taxes is still limited to the territory owned by or ceded to the United States of America, which now includes the “United States”. As under the Northwest Ordinance, taxation is limited to raising revenue to pay for the debt of the United States of America government. The exercise of any authorized power by the United States of America government creates a legitimate debt which is to be paid for by persons with a nexus to the United States through federal taxation. But under the Constitution of September 17, 1787, a few additional restrictions were placed on the power to tax:

- 1) Under Article I Section 2 Clause 3, all direct taxes must be apportioned among the several States of “this Union,” the United States Union.
- 2) *“Duties, Imposts and Excises”* are all indirect taxes on privileged activities. Under Article I Section 8 Clause 1, all indirect taxes must be uniform throughout the “United States” Union.

The geographical term of the “United States” which appears in Article 1 Section 8 Clause 1 can only be the territory owned by or ceded to the United States of America because the power of taxation is derived from the proprietary/military power of the United States of America. The U.S. Supreme Court has clarified that the territorial scope of “United States” found in Article I Section 8 Clause 1 is limited to the federated States of the United States Union and excludes the U.S. Territories.<sup>47</sup> The federated States consist exclusively of territory owned by the United States of America.

The taxable privileged activities are many. Article I Section 9 Clause 5 prohibits Congress from laying a duty tax on articles exported from any State. Also Article I Section 10 Clause 2 prohibits the States from laying any imposts or duties on imports or exports to/from the United States. Therefore, in regards to imports/exports, under Article I Section 8 Clause 1, the United States of America is reserving for itself the exclusive right to tax imports from without the United States Union to within the United States Union. All ports of entry into the United States of America consist of territory owned by the United States of America and are therefore a part of the United States. So any imports from a foreign State or a U.S. Territory to a confederated State must pass through the United States, where it is taxed, before reaching its intended destination in a confederated State.

The reference to “Taxes,” in Article I Section 8 Clause 1, is a reference to direct taxes on people, but not on property, within the United States. In Article I Section 8 Clause 1, the Confederation Congress is claiming the power of direct taxation on people in the United States. This means that the State government could claim the power of direct taxation on property within the United States, but not on people. Since Article 4 of the Northwest Ordinance prohibits the taxation of the property owned by the United States of America, the reward to the State governments for ratifying the Constitution of September 17, 1787 would be limited to the power of direct taxation on personal property located within the United States. However, the later 1940 Buck Act, codified in 4 U.S.C. §§ 105-113, expanded the taxing power of the State governments to include taxation on the incomes on persons working in their federated State of the United States Union.

#### **12.3.6.4    Art. I:8:2 – To Borrow Money on the Credit of the United States of America**

**Constitution of September 17, 1787 – Article I Section 8 Clause 2:** *“To borrow Money on the Credit of the United States;”*

The Confederation Congress was previously granted the general power borrow money on the credit of the United States of America government under Article IX Clause 5 of the Articles of Confederation: *“The united states in congress assembled shall have authority . . . to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted.”*

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<sup>47</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** – The Court considered the territorial scope of the term “the United States” in the Constitution and held that this term as used in the uniformity clause of the Constitution was territorially limited to the States of the Union. U.S. Const. art. I, §8 (“[A]ll Duties, Imposts and Excises shall be uniform throughout the United States.”); see *Downes v. Bidwell*, 182 U.S. 244, 251, 21 S.Ct. 770, 773, 45 L.Ed. 1088 (1901) (“It can nowhere be inferred that the territories were considered a part of the United States.”)

#### 12.3.6.5 Art. I:8:3 – To Regulated Commerce with Foreign Nations & Among the States

**Constitution of September 17, 1787 – Article I Section 8 Clause 3:** *“To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;”*

The Confederation Congress was previously granted the general power to regulate commerce with the Indian Tribes under Article IX Clause 4 of the Articles of Confederation: *“The united states in congress assembled shall also have the sole and exclusive right and power of . . . regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated.”*

The Confederation Congress was also previously granted the general power to regulate commerce with the foreign nations under Article IX Clause 1 of the Articles of Confederation: *“The united states in congress assembled shall also have the sole and exclusive right and power of . . . --entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever”*

The power to regulate commerce among the several States is derived from the proprietary power of the Confederation Congress and is therefore limited to the several federated States of the United States Union.

#### 12.3.6.6 Art. I:8:4 – To Establish Uniform Rule of Naturalization and Bankruptcy

**Constitution of September 17, 1787 – Article I Section 8 Clause 4:** *“To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;”*

The powers *“to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States”* are derived from the proprietary power of the Confederation Congress. Article I Section 8 Clause 17 grants the power to exercise exclusive legislation over the United States and, under Article I Section 1, the Congress of the United States is vested with the power to exercise exclusive legislation over the United States. Article I Section 8 Clause 4 expressly permits the Congress to establish a uniform rule of naturalization and uniform laws on the subject of bankruptcy throughout the United States.

##### 12.3.6.6.1 Uniform Rule of Naturalization

Article I Section 8 Clause 4 of the Constitution of September 17, 1787 conferred the power to the Congress to regulate who are “citizens of the United States.”<sup>48</sup> The Naturalization Act of March 26,

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<sup>48</sup> **U.S. v. Wong Kim Ark, 169 U.S. 649 (1898), at p. 688** – *“This sentence [the first sentence] of the Fourteenth Amendment is declaratory of existing rights and affirmative of existing law as to each of the qualifications therein expressed -- “born in the United States,” “naturalized in the United States,” and “subject to the jurisdiction thereof” -- in short, as to everything relating to the acquisition of citizenship by facts occurring within the limits of the United States. **But it has not touched the acquisition of citizenship by being born abroad of American parents, and has left that subject to be regulated, as it***



1790, the first uniform Rule of Naturalization throughout the United States, provided that : *“That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof.”*<sup>49</sup> The first thing to point out about the above quoted text is that the term “United States,” as used in the above quoted text, has two contexts: 1) in the phrase “within the limits of the United States,” the term “United States” has a geographical context 2) in the phrase “under the jurisdiction of the United States,” the word “jurisdiction” is singular and therefore, the term “United States” has a singular political context and must mean the United States of America government to be consistent with the Constitution of September 17, 1787. The territorial jurisdiction of the United States of America government is the United States, the territory owned by or ceded to the United States of America. Therefore, the geographical “United States,” as used in the above mentioned first context, must mean the territory owned by or ceded to the United States of America. The conclusion from the above analysis is that under Article I Section 2 of the Constitution of September 17, 1787 and under the Naturalization Act of March 26, 1790, the term “citizen of the United States” means a citizens of the United States of America, a citizenry which owes allegiance to the United States of America government, is domiciled on territory owned by or ceded to the United States of America and therefore, is subject to the federal laws of the United States of America. Since ratification of the Articles of Confederation, the United States of America government has often been referred to by the “United States of America” and the “United States.” Sometimes a “citizen of the United States” is referred to by “citizen of the United States of America” or even “America citizen.”<sup>50</sup>

#### **12.3.6.6.2 Uniform Laws of the Subject of Bankruptcies**

Bankruptcy, no matter what the chapter, is for residents of government land located in the counties which make up federal judicial district of the bankruptcy court. A person who files for bankruptcy should satisfy the territorial jurisdiction of the bankruptcy court, which is part of the United States district court. The United States district courts are territorial courts limited to government land. These courts are not courts of an independent judicial branch of government, vested with the judicial power of the United

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**had always been, by Congress in the exercise of the power conferred by the Constitution to establish an uniform rule of naturalization.”**

<sup>49</sup> **1 Stat. 103, Chap. 3; March 26, 1790** - “An Act to establish an uniform Rule of Nationalization.

Section 1. “Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That **any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof.** . . And the children of such persons so naturalized, dwelling- within the United States, being under the age of twenty-one years at the time of such naturalization, shall also be considered as citizens of the United States. And the children of citizens of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as natural born citizens: Provided, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States . . .”

<sup>50</sup> **1 Stat. 477, Chap. 36; May 28, 1796** – “An Act for the relief and protection of American Seaman

Section 1: Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the . . . That the duty of said agents shall be, under the direction of the President of the United States, to inquire in the situation of such **American citizens** or others, sailing, conformably to the law of nations . . .

Sec. 4. And be it further enacted, That the collector of every district shall keep a book or books, in which, at the request of any seaman, being a **citizen of the United States of America**, and producing proof of is citizenship,”



States of America, and ordained by the Confederation Congress under Article III of the Constitution of September 17, 1787. Rather, the United States district courts are part of the legislative branch of the Government of the United States, created legislatively by the Congress of the United States in the Judiciary Act of 1789. These courts are found in Sections 81 to 131 of Chapter 5 of Title 28 of the U.S. Code. There in the “Historical and Revision Notes” will be found the most important sentence in the United States Code: “*Sections 81-131 of this chapter show the territorial composition of districts and divisions by counties as of January 1, 1945.*” That note explains that the territorial jurisdiction of the federal district courts is limited to the territory owned by or ceded to the United States of America that is located within the counties which comprise the judicial districts and divisions.

#### **12.3.6.7 Art. I:8:5 – To Coin Money and Regulate the Value Thereof**

**Constitution of September 17, 1787 – Article I Section 8 Clause 5:** “*To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;*”

The Confederation Congress was previously granted the national power to coin money and regulated the value thereof, and fix the standard of weights and measures under Article IX Clause 4 of the Articles of Confederation: “*The united states in congress assembled shall also have the sole and exclusive right and power of . . . regulating the alloy and value of coin struck by their own authority, or by that of the respective states—fixing the standard of weights and measures throughout the united states.*”

#### **12.3.6.8 Art. I:8:6 – To Provide for the Punishment of Counterfeiting**

**Constitution of September 17, 1787 – Article I Section 8 Clause 6:** “*To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;*”

Previously, under IX Clause 4 of the Articles of Confederation, the Confederation Congress was expressly granted the power of regulating the alloy and value of coin struck. The power to regulate the alloy and value of coin struck by their own authority implies to power to provide for the punishment of counterfeiting of coins because it is impossible to regulate the value of coin struck if you are not also given the power to provide for punishment of counterfeiting.

#### **12.3.6.9 Art. I:8:7 – To Establish Post Offices and Post Roads**

**Constitution of September 17, 1787 – Article I Section 8 Clause 7:** “*To establish Post Offices and post Roads;*”

The Confederation Congress was previously granted the national power to establish post offices and post roads under Article IX Clause 4 of the Articles of Confederation: “*The united states in congress assembled shall also have the sole and exclusive right and power of . . . establishing and regulating post offices from one state to another, throughout all the united states, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office.*”

#### **12.3.6.10 Art. I:8:8 – To Promote the Progress of Science and Useful Arts**

**Constitution of September 17, 1787 – Article I Section 8 Clause 8:** *“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors exclusive Right to their respective Writings and Discoveries;”*

Article I Section 8 Clause 8 is a confirmation of the power of the Confederation Congress “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors exclusive Right to their respective Writings and Discoveries;” The power to promote the Progress of Science and useful Arts is derived from the proprietary power of the United States of America and therefore limited to the United States, the territory owned by or ceded to the United States of America.

**12.3.6.11 Art. I:8:9 – To Constitute Tribunals Inferior to the “supreme Court”**

**Constitution of September 17, 1787 – Article I Section 8 Clause 9:** *“To constitute Tribunals inferior to the supreme Court;”*

The Confederation Congress was previously granted the general power to constitute Tribunals under Article IX Clause 2 of the Articles of Confederation: *“The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following.”*

The first office of District Attorney was created by Section 35 of the Judiciary Act of 1789, which according to Article I Section 8 Clause 9, initiated the constitution of the “Tribunals inferior to the supreme Court.” Not only were the District Courts created by Judiciary Act of 1789 inferior to the supreme Court, so was the Supreme Court, whose members were finally determined in Section 1 of the Judiciary Act of 1789.

**12.3.6.12 Art. I:8:10 – To Punish Piracies**

**Constitution of September 17, 1787 – Article I Section 8 Clause 10:** *“To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;”*

The Confederation Congress was previously granted the general power to define and punish piracies and felonies committed on the high seas under Article IX Clause 1 of the Articles of Confederation: *“The united states in congress assembled, shall have the sole and exclusive right and power of . . . appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.”*

**12.3.6.13 Art. I:8:11 – To Declare War**

**Constitution of September 17, 1787 – Article I Section 8 Clause 11:** *“To declare War, grant Letters of Marque and Reprisal, and make rules concerning Captures on Land and Water;”*

The Confederation Congress was previously granted the general powers to declare war, grant letter of marque and reprisal and make rules concerning captures on land and water under Article IX Clause 1 of the Articles of Confederation: *“The united states in congress assembled, shall have the sole and*

*exclusive right and power . . . of determining on peace and war, except in the cases mentioned in the sixth article . . . of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated--of granting letters of marque and reprisal in times of peace.”*

#### **12.3.6.14 Art. I:8:12 – To Raise and Support Armies**

**Constitution of September 17, 1787 – Article I Section 8 Clause 12:** *“To raise and support Armies, but no Appropriation of Money to that use shall be for a longer Term than two Years;”*

The Confederation Congress was previously granted the general power to raise and support armies, including the related appropriation of money, under Article IX Section 5 of the Article of Confederation: *“The united states in congress assembled shall have authority to . . . ascertain the necessary sums of Money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expenses . . . to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding.”*

#### **12.3.6.15 Art. I:8:13 – To Provide and Maintain a Navy**

**Constitution of September 17, 1787 – Article I Section 8 Clause 1:** *“To provide and maintain a Navy;”*

The Confederation Congress was previously granted the general power to provide and maintain a navy under Article IX Section 5 of the Article of Confederation: *“The united states in congress assembled shall have authority to . . . to build and equip a navy.”*

#### **12.3.6.16 Art. I:8:14 – To Make Rules for the Government of Land and Naval Forces**

**Constitution of September 17, 1787 – Article I Section 8 Clause 14:** *“To make rules for the Government and Regulation of the land and naval Forces;”*

The Confederation Congress was previously granted the general power to make rules for the government and regulation of the land and naval forces under Article IX Clause 4 of the Articles of Confederation: *“The united states in congress assembled shall also have the sole and exclusive right and power of . . . making rules for the government and regulation of the said land and naval forces, and directing their operations.”*

#### **12.3.6.17 Art. I:8:15 – To Call Forth the Militia to Execute the Laws of the U.S.A.**

**Constitution of September 17, 1787 – Article I Section 8 Clause 15:** *“To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;”*

The phrase “the Union,” as used in Article I Section 8 Clause 15, is a reference to the United States of America Union of confederated States. The State governments of those confederated States are collectively represented in the Confederacy by the United States of America government. So, the phrase “Laws of the Union” means Laws of the United States of America. Article I Section 8 Clause 15 confirms the power of the Confederation Congress to use the military power of the Confederacy to

enforce the laws of the United States of America. The territorial jurisdiction of the United States of America is limited to the territory owned by or ceded to the United States of America. Therefore, any such enforcement is also limited to the territory owned by or ceded to the United States of America.

At the time the Northwest Ordinance was ordained, the Northwest Territory was the complete proprietary property of the United States of America. The Northwest Ordinance established propriety and military power of the United States of America as the basis for all territorial jurisdictions in the Confederacy. Article I Section 8 Clause 17 granted additional proprietary power to the United States of America over the “United States.” The federated States of the United States Union are occupied by the military, as under Article I Section 8 Clause 17, those States are expressly “*for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.*” The United States of America has always administered the “United States,” proprietary property of the United States of America, with martial law, as authorized under Article I Section 8 Clause 15 of the Constitution of September 17, 1787.

#### **12.3.6.18 Art. I:8:16 – To Provide For Organizing and Arming the Militia**

**Constitution of September 17, 1787 – Article I Section 8 Clause 16:** “*To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;*”

The Confederation Congress was previously granted the general power to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States of America government under Article IX Clause 5 of the Articles of Confederation. Article IX Clause 5 of the Articles of Confederation also reserved to the States the appointment of officers. Article IX Clause 5 of the Articles of Confederation reads: “*The united states in congress assembled shall have authority to . . . agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and clothe, arm and equip them in a soldier like manner, at the expense of the united states, and the officers and men so clothed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled.*”

Article I Section 8 Clause 16 of the Constitution of September 17, 1787 confirmed the above mentioned powers previously granted to the Confederation Congress through the Articles of Confederation and also granted to the Confederation Congress the additional related powers to prescribe the manner in which the States would train their militia.

#### **12.3.6.19 Art. I:8:17 – Grant of Power to Exercise Exclusive Legislation**

**Constitution of September 17, 1787 – Article I Section 8 Clause 17:** “*To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square), as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And”*

When the Northwest Ordinance of July 13, 1787 was ordained, the United States of America was already the propriety owner of the Northwest Territory. Under Article 4 of the Northwest Ordinance, the United States of America ordained itself with the power to make local laws limited to the Northwest Territory. The authority to ordain itself with such powers is derived from the proprietary/military power that it possessed over that territory.

Article I Section 8 Clause 17 is a grant to the Confederation Congress, by the ratifying original States, of power to exercise exclusive legislation over specific territory to be owned by or ceded to the United States of America. Essentially Article I Section 8 Clause 17 extends the propriety power of the Confederation Congress to the territory to be ceded by particular States for “*the Seat of Government of the United States*” and, “*all places to be purchased, by the consent the legislature of the State in which the same shall be for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Building.*”

Governments govern over some specific territory, referred to as the territorial jurisdiction of the particular government. Furthermore, the territorial jurisdiction of a particular government must be defined in law. Notice that the word “Government,” as used in the phrase “*the Seat of the Government of the United States*,” is singular, giving the term “United States,” a singular geographical context. The term “United States,” in a singular geographic context, is a proper noun and the name of a certain place, **the State**, to be governed by the government created under the Constitution September 17, 1787. The actual government of the state is designated by the name of the state, the “United States.”<sup>51</sup> The Preamble to the Constitution of September 17, 1787 reveals that “a more perfect Union” is created by the Constitution. The States of the United States Union are several but the Union itself is just one. Therefore, the term “United States” must be the name of the Union, the name of the State, to be governed by the “Government of the United States.” The term “United States,” in a singular geographical sense, is a direct reference to the United States Union and an indirect reference to the States united into that Union. Over the United States, the United States of America government possessed not only power to exercise exclusive legislation, but also its proprietary/military power, which included the power to tax and regulate the inhabitants of the United States.

The territory ceded by particular States is for the Seat of the Government of the United States. Therefore, each State of the United States Union must consist of the collective “*all Places*” that was purchased within the exterior borders of a confederated State by the consent of the State’s legislation. Under

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<sup>51</sup> **Bouvier’s Law Dictionary (1856), STATE**, government. This word is used in various senses.

**In its most enlarged sense**, it signifies a self-sufficient body of persons united together in one community for the defence of their rights, and to do right and justice to foreigners. In this sense, the state means the whole people united into one body politic; (q. v.) and the state, and the people of the state, are equivalent expressions. 1 Pet. Cond. Rep. 37 to 39; 3 Dall. 93; 2 Dall. 425; 2 Wilson’s Lect. 120; Dane’s Appx. §50, p. 63 1 Story, Const. §361.

**In a more limited sense**, the word ‘state’ expresses merely the positive or actual organization of the legislative, or judicial powers; thus **the actual government of the state is designated by the name of the state**; hence the expression, the state has passed such a law, or prohibited such an act. **State also means** the section of territory occupied by a state, as the state of Pennsylvania.



Article 4 of the Northwest Ordinance, Congress was to apportion a tax among the “*inhabitants and settlers of the said territory . . . according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislature of the district or districts, or new States, as in the original States.*” The above critically important quoted text, taken from the Northwest Ordinance, had conferred concurrent territorial jurisdiction to each of the confederated States over any federal land located with the State’s exterior borders. The above quoted text also proves each State of the United States must consist of the collective “*all Places*” that was purchased within the exterior borders of a confederated State by the consent of the State’s legislation. The phrase “*the other States*” in the above quoted text is a reference to the federated States of the United States Union created upon the establishment of the Constitution of September 17, 1787 or when a new territorial State was to be admitted. The word “*other*,” as used in the phrase “*the other States*,” indicates that the “*inhabitants and settlers of the said territory*” collectively comprised the territorial States created in Article 5 of the Northwest Ordinance. Congress was to apportion a tax among the territorial States and the federated States of the United States according to the same common rule and measurement. The “*new States*” in the above quoted text is a reference to the admitted confederated States. The “*original States*” in the above quoted text is a reference to the 13 original confederated States. This paragraph proves that the collective “*all Places*” that was purchased within the exterior borders of a confederated State by the consent of the State’s legislation was erected into a State of the United States.

Each of those States of the United States were united by the State’s Representatives to the Congressional House of Representatives under Article I Section 2 Clause 3 and federated by the division of territorial power between the United States of America government and the State governments under Article I Section 8. The power to execute exclusive legislation over the Seat of Government of the United States and over the United States is granted to the Confederation Congress under this Clause and is then vested in the Congress of the United States under Article I Section 1.

The Preamble of the Constitution of September 17, 1787 reveals that the establishment of “this Constitution,” or system of government known as the “Government of the United States,” was created for the United States of America government. The Government of the United States, consisting primarily of the Congress of the United States, is created as an instrumentality of the United States of America government for purposes of administering the territory owned by or ceded to the United States of America. On failure to adopt “this Constitution,” the Government of the United States became a private commercial corporation, the United States Corporation.

To summarize, Article I Section 8 Clause 17 of the Constitution of September 17, 1787 created a territory named the “United States,” consisting of territory that is owned by the United States of America and scatter within the exterior borders of the several confederated States, over which the Congress has the power to exercise exclusive legislation. Article I Section 8 Clause 17 also partitioned the “United States” into States; the collective federal land located within the exterior borders of a confederated State is a State of the United States over which concurrent territorial jurisdiction is shared between the United States of America and the State government.

#### **12.3.6.19.1 The Original Federated States**



On June 21, 1788, upon the establishment of the Constitution of September 17, 1787 by the first nine confederated States to ratify the Constitution, pursuant to Article I Section 8 Clause 17, the United States of America government began buying “Places” located within the exterior borders of those confederated States that were known as federal enclaves. The collective federal enclaves located within the exterior borders of a ratifying State was erected into a federal enclave State and then united, becoming a State of the United States Union. On Jun 21, 1788, the United States Union consisted of the then 9 federated States of the Union. By May 29, 1790, the last four original States had ratified the Constitution of September 17, 1787 and the United States Union consisted of the then 13 federated States of the Union.

In a confederated State the English common-law is the system of law. While in a federated State, the State Constitution of the State and the laws passed pursuant to that Constitution is the law. But, per Article VI Clause 2 of the Constitution of September 17, 1787, “this Constitution” and the Laws of the United States is the supreme “Law of the Land,” where “the Land” is a reference to the “United States” Union. Article 3 Section 1 of the Constitution of the State of California confirms the previous Statement: *“The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.”*

Both the United States of America government and the “State of California” government may lawfully regulate and tax the inhabitants of the federated State by the name of “State of California.” However, the laws of the government of the United States of America government are supreme to the laws of the government of the “State of California.” In the confederated State by the name of “California” English common-law is the system of law.

#### **12.3.6.19.2 Federated States Overlaid On Top of the Confederated States**

The power to exercise exclusive legislation is expressly granted over both the territory to be ceded by particular States for the Seat of the Government of the United States as well as the territory to be purchased by the consent of the State legislature for the erection of forts magazines, arsenals, dock-yards, and other needful building. However, the territory for the Seat of government is ceded while the territory for forts is only purchased. The ceding of territory by a State involves more than just a transfer of title of ownership that occurs when territory is sold. When territory is ceded by a State, the ceded territory no longer remains a part of the State which ceded it. However when territory is sold by a State, the sold territory remains a part of the State which sold the territory.

Since the federated States consist exclusively of territory that is sold, but not ceded, by the original State governments, each federated State was erected by overlaying the federated State on top of the confederated State. The territory of a federated State was not separated from the territory of the confederated State in which it was erected and therefore, the two States geographically overlap each other and are “inseparable.” Article 3 Section 1 of the Constitution of the State of California confirms the previous Statement: *“The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.”* The federated State by the name of “State of California” is inseparable from “California,” a confederated State of the United States of America, because it has been erected within “California” by overlaying it on top of “California.”

#### **12.3.6.19.3 Federated States of the United States are Military Occupied States**

Per Article I Section 8 Clause 17, the “all Places” located within the exterior border of the confederated States to be purchased by the consent of the State legislature, are for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. Therefore, the federated States located within the exterior borders of a confederated States are not inhabited by the general public. Rather, those federated States of the United States Union are militarily occupied States.

#### **12.3.6.19.4 Admitted States to Have the Same Treatment as the Original States**

Most of the federal land located within the exterior borders of the admitted confederated States was not purchased by the consent of the State legislatures. Instead, the United States of America acquired proprietary ownership of those federal lands, prior to the formation of the former territorial States, and retained its proprietary ownership when the former territorial States were admitted to the United States of America Union. Under Article 5 of the Northwest Ordinance, upon acquiring 60,000 inhabitants, a territorial State would be admitted into the “perpetual” Union “*on an equal footing with the original States in all respects whatever.*” The “equal footing” clause meant, among other things, that when a former territorial State was admitted, all territory of the former territorial State that was still owned by the United States of America was to be erected into a federated State of the United States Union. An admitted confederated State to the United States of America Union had English common-law as its system of law while the admitted federated State to the United States Union had a written system of law under which the inhabitants were taxed and regulated by both the United States of America and their State government.

#### **12.3.6.20 Art. I:8:18 – To Make All Laws to Bring into Execution the Foregoing Powers**

**Constitution of September 17, 1787 – Article I Section 8 Clause 18:** “*To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.*”

Article I Section 8 Clause 18 grants to the Confederation Congress the power to makes all laws necessary for carrying into execution “the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof. The Confederation Congress previously held most of the foregoing powers enumerated in Article I Section 8 Clauses 1-18. Through Article I Section 8 Clause 18, the exercise of the above mentioned powers by the Confederation Congress is translated into a more a practical form of power, the power to make legislation.

Article I Section 1 of the Constitution of September 17, 1787 specifically vests in the Congress of the United States “all legislative powers herein granted,” which includes the legislative power granted to the Confederation Congress in Article I Section 8 Clause 18. The Confederation Congress is the depository of all proprietary power and all the powers delegated to the United States of America government by the people through their States, such as all international, national, and military powers. But the Congress of the United States, as an instrumentality of the confederal government, carries those powers into execution by the enactments of statutory law.

#### **12.3.7 Article I Section 9 – Limits on Congress**

Article I Section 9 expressly prohibited certain local legislation over the “United States,” which sanctioned all other legislation over the “United States: which is not expressly prohibited. Article I Section 9 also contains certain restriction on the Confederation Congress and requires the consent of the Confederation Congress before any person holding an office in any of the State governments may accept any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State.

#### **12.3.7.1 Art. I:9:1 – Slave Trade**

**Constitution of September 17, 1787 – Article I Section 9 Clause 1:** *“The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.”*

Article I Section 9 Clause 1 prohibits the Confederation Congress from regulating the Slave trade within the federated States of the United States Union prior to the year of 1808. The Persons whose Migration or Importation might be prohibited by the Congress were, of course, slaves. The Constitution recognized the power of the federated States of the United States Union to exclusively regulate the slave trade prior to 1808. After that date, the Constitution contemplates that only slaves can or shall be regulated by the Confederation Congress, through the enactment of laws by the Congress of the United States.

#### **12.3.7.2 Other Prohibited Local Legislation Over the United States**

The below listed clauses from Article I Section 9 are additional prohibited acts of the Confederation Congress, through the enactment of laws by the Congress of the United States.

- **Constitution of September 17, 1787 – Article I Section 9 Clause 3:** *“No Bill of Attainder or ex post facto Law shall be passed.”*
- **Constitution of September 17, 1787 – Article I Section 9 Clause 4:** *“No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.”*
- **Constitution of September 17, 1787 – Article I Section 9 Clause 5:** *“No Tax or Duty shall be laid on Articles exported from any State.”*
- **Constitution of September 17, 1787 – Article I Section 9 Clause 6:** *“No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.”*

#### **12.3.7.3 General Limitations on the Confederation Congress**

The following clauses from Article I Section 9 placed certain restrictions on the Confederation Congress.

- **Constitution of September 17, 1787 – Article I Section 9 Clause 2:** *“The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”*
- **Constitution of September 17, 1787 – Article I Section 9 Clause 7:** *“No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement*

*and Account of the Receipts and Expenditures of all public Money shall be published from time to time.”*

#### **12.3.7.4 Art. I:9:8 – A Prohibition on the Confederation Congress – Grant of Title of Nobility**

**Constitution of September 17, 1787 – Article I Section 9 Clause 8:** *“No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.”*

The term “United States” in Article I Section 9 Clause 8 has a singular political context and therefore refers to the United States of America government. The United States of America government is prohibited from granting a title of nobility. The pronoun “them” in Article I Section 9 Clause 8 refers to term “United States,” in a plural political context and therefore, is a reference to the state governments. Consent from the Confederation Congress is required before any person holding an office in any of the State governments may accept any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State.

#### **12.3.8 Article I Section 10 – State Government Powers Prohibited**

Under Article I Section 10 of the Constitution of September 17, 1787, the State governments agreed to be prohibited from the exercise of certain powers. The powers that the State governments are prohibited from exercising have to do with international and national issues, powers that the state governments had previously delegate to the Confederation Congress under Article IX of the Articles of Confederation. Many of powers that the State governments are prohibited from exercising under Article I Section 10 of the Constitution of September 17, 1787 were previously prohibited under Article VI of the Articles of Confederation. However, the prohibited powers were slightly expanded under Article I Section 10 of the Constitution of September 17, 1787.

##### **12.3.8.1 Art. I:10:1 – State Government Powers Absolutely Prohibited**

**Constitution of September 17, 1787 – Article I Section 10 Clause 1:** *“No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.”*

Under Article I Section 10 Clause 1 of the Constitution of September 17, 1787, the State governments agreed to be absolutely prohibited from: entering into treaties, alliances or confederations; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts; or grant any Title of Nobility.”

Under the Articles of Confederation, the State governments similarly agreed to be prohibited from: entering into any conference, agreement, or alliance or treaty with any King, prince or state under Article

VI Clause 1; granting letters of marque or reprisal under Article VI Clause 5; and granting any title of nobility under Article VI Clause 1.

#### **12.3.8.2    Art. I:10:2 – State Government Prohibited from Taxing Import-Export Without Consent**

**Constitution of September 17, 1787 – Article I Section 10 Clause 2:**    *“No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it’s inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.”*

Under Article I Section 10 Clause 2 of the Constitution of September 17, 1787, the State governments agreed to be prohibited, without the consent of the Confederation Congress, from taxing imports or exports, except for the fulfillment of state inspection laws. The net revenue of the tax paid shall be for the use of the federal Treasury, not the state treasury. All such laws are subject to the revisions and control of the Confederation Congress.

Under Article VI Clause 3 of the Articles of Confederation, the State governments agreed to similar restrictions concerning the taxing of imports or exports which may interfere with any treaties established by the Confederation Congress with any king, prince or state.

#### **12.3.8.3    Art. I:10:3 – Other State Government Powers Prohibited Without Consent**

**Constitution of September 17, 1787 – Article I Section 10 Clause 3:**    *“No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.”*

Under Article I Section 10 Clause 3 of the Constitution of September 17, 1787, the State governments agreed to be prohibited, without the consent of the Confederation Congress, from: laying any Duty of Tonnage; keeping Troops, or Ships of War in time of Peace; entering into any Agreement or Compact with another State, or with a foreign Power; or engaging in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Under the Articles of Confederation, the State governments agreed to be prohibited from: keeping troops or ships of war in time of peace under Article VI Clause 4; entering into any agreement or compact with another State under Article VI Clause 2; entering into any agreement or compact with a foreign power under Article VI Clause 1; and engaging in war, unless actually invaded, or in such imminent danger as will not admit of delay under Article VI Clause 5.

### **12.4    Article II – Executive Branch**

Article II is concerned with the executive branch of government . . . not just the executive branch of Government of the United States under the authority of the Constitution of September 17, 1787, but also the executive branch of confederal government under the authority of the Articles of Confederation.

There are some games being played out in Article II for purposes that can only be to confuse the reader. The first condition that may confuse the reader is that Article II contains three different offices of a president, all with a similar titles:

- 1) The Office of “President of the United States” is a legislative branch office created under the authority of this Constitution, filled with a non-elected employee of the Senate, selected by the Senate;
- 2) The Office of “President” is the executive branch office created under the authority of this Constitution to which executive powers are granted and which Office is filled by appointment;
- 3) The Office of “President of the United States of America” is the executive branch Office created under the authority of the Articles of Confederation, which is vested with the executive powers granted to the Office of President, and which Office is filled with the person elected by the State’s Presidential Electors.

A second condition in Article II that may confuse the reader is the President of the United States of America is linked to the abbreviation of “President.” Yet, the official title of the person who fills the “Office of President” is “President.” Therefore, unless the context indicates otherwise, the word “President,” as used in Article II, should be interpreted to be a reference to the person who fill the “Office of President.”

A third condition in Article II that may confuse the reader is the presence of the oath of office to the legislative branch “President of the United States” in Article II, the article set aside for the executive branch of government.

Article II Section 1 Clauses 1 through 3 constitute a revision to the Articles of Confederation for purposes of creating the Office of President of the United States of America and the Office of Vice President of the United States of America as part of the United States of America Confederacy government, under the authority of the Articles of Confederation of November 15, 1777. Under Article IX of the Articles of Confederation, the Confederation Congress always had the power to appoint one of their numbers to preside as “president”; but that “president” had no executive power and is referred to as the “president of congress” in the Northwest Ordinance. Article II of the Constitution of September 17, 1787 is clearly a revision of the Articles of Confederation of November 15, 1777, in that it provides for a President of the United States of America vested with the executive power, to be elected by the State Electors. The new Offices of President and Vice President of the United States of America were initially created temporarily, upon the ratification the Constitution of September 17, 1787 by the Conventions of ninth States, by invoking the Article IX power of the Articles of Confederation to appoint civil officers. Upon the ratification of the Constitution of September 17, 1787 by all 13 Original States, the Articles of Confederation were amended to make permanent the newly created offices pursuant to Article XIII of the Articles of Confederation.

**Articles of Confederation – Article IX:** *“The united States in congress assembled shall have authority . . . to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united States under their direction”.*

**Articles of Confederation – Article XIII:** *“And the Articles of this confederation shall be inviolably observed by every State, and the union shall be perpetual; nor shall any alteration at any time*



*hereafter be made in any of them; unless such alteration be agreed to in a congress of the united States, and be afterwards confirmed by the legislatures of every State.”*

#### **12.4.1 Article II Section 1 – Election of POTUSA, Office of President, Oath of POTUS**

Article II Section 1 vests the executive powers in a President of the United States of America, describes the election process of the President of the United States of America, introduces an “Office of President,” and mandates a specific non-binding oath of office for the legislative branch President of the United States.

##### **12.4.1.1 Art. II:1:1 – Executive Power Vested in POTUSA**

**Constitution of September 17, 1787 – Article II Section 1 Clause 1:** *“The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows”*

Article II Section1 Clause 1 vests in a President of the United States of America the executive powers that are delegated to the Office of President under Article II Section 2. Only the person who fills the Office of President will be vested with the powers delegated to that office, and that person is required to adopt “this Constitution.” Therefore, the adoption of the Constitution of September 17, 1787 requires that the President of the United States of America hold a second Office, the Office of President.

Close attention should be given Article II Section 1 Clause 1 because it establishes a link that associates the “President of the United States of America” with the abbreviated title of “President,” as used in parts of Article II. The last sentence of Article II Section 1 Clause 1 says the “*He*,” meaning the President of the United States of America, “*shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows.*” The next three following clauses then proceed to describe the process for electing the President and Vice President of the United States of America. Article II Section 1 Clause 3 specifically says that “*The Person having the greatest Number of Votes shall be the President,*” establishing that the abbreviation “President,” as used in Article II section 1 Clause 3, may be a reference to the President of the United States of America in the remainder of Article II, depending on the context.

The phrase “Vice President,” as used in the entirety of Article II, is a reference to the “Vice President of the United States of America”.

##### **12.4.1.2 Art. II:1:2 – Method of Choosing the Presidential Electors**

**Constitution of September 17, 1787 – Article II Section 1 Clause 2:** *“Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.”*

Article II Section1 Clause 2 sets the number of Presidential Electors, now called the Electoral College, each of the several State governments shall appoint equal to “*the whole Number of Senators and Representatives to which the State may be entitled in the Congress*”. Therefore, the number of

Presidential Electors to which a State is entitled is equal to the number of Congressional Representatives to which the State is entitled plus two.

The State's legislature determines the manner in which the State government selects its own Presidential Electors. But the following text describes the general approach currently adopted by the States:

- 1) **Select a slate of potential Electors for each party in each State<sup>52</sup>** - Before a State selects its Presidential Electors, each party in the State must first select a slate of potential electors which are pledged to the party's Presidential candidate. This part of the Electoral College system is controlled by the political parties in each State and varies from State to State. Generally, the parties either nominate their slate of potential Electors at their State party conventions or they chose them by a vote of the party's central committee. This happens in each State for each party by whatever rules the State party and (sometimes) the national party have for the process. This process results in each Presidential candidate having their own unique slate of potential Electors for each State. The people chosen for a slate of potential Electors may be State elected officials, State party leaders, or people who have a personal or political affiliation with the party's Presidential candidate. On or before October 1 of the presidential election year, each party's nominee must file with the Secretary of State of each State the slate of potential electors chosen by the party for the State.
- 2) **Vote for a Candidate's slate of potential Electors in each State<sup>53</sup>** - At this point, each party has a slate of potential electors for each State, but the several States governments themselves still have not yet chosen their Presidential Electors. Each State's Presidential Electors are chosen on Election Day in the Popular vote by the registered voters of the State. Those registered voters in each of the States cast ballots on Election Day in their State and indicate on their ballot a presidential candidate of their choice. Most States have a winner takes all rule for the Electoral College. For States with a winner takes all rule, the slate of potential Electors of the Presidential candidate with the most popular votes are appointed as the State's Presidential Electors. Nebraska and Maine have a proportional distribution of the Electors

#### **12.4.1.3 Requisite of Presidential Electors**

A State's Presidential Electors are distinguished from the electors in the State for a Congressional member in that there are a fixed number of Presidential Electors for each State but not a fixed number of electors for the Congressional members. The Constitution of September 17, 1787 sets the number of Presidential Elector that the States shall appoint but leaves it up to the State's legislature to determine the manner in which the States may appoint their Presidential Electors. No requisites for a State's Presidential Electors are given in the Constitution of September 17, 1787, leaving it up to the States to set the requisites of their appointed Presidential Electors.

#### **12.4.1.4 Art. II:1:3 – Electing the President of the United States of America**

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<sup>52</sup> <https://www.archives.gov/federal-register/electoral-college/about.html>

<sup>53</sup> <https://www.archives.gov/federal-register/electoral-college/about.html>

**Constitution of September 17, 1787 – Article II Section 1 Clause 3:** *“The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President: and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.”*

Article II Section 1 Clause 3 sets the manner in which the President and Vice President of the United States of America shall be elected. Each Presidential Elector votes for two Persons. Then, for each State, a certified summary list of Persons voted for and their number of votes is prepared, sealed, and sent to the President of the Senate at the Seat of the Government of the United States. Essentially, the person receiving the greatest number of votes shall be the POTUSA and the person receiving the second greatest number of votes shall be the VPOTUSA. Additional rules for electing the POTUSA and VPOTUSA are contained in Clause 3 for those cases where there is no Majority of votes of the whole number of Electors appointed.

The important thing to take note of in Article II Section 1 Clause 3 is that the person receiving the greatest number of votes, counted in the presence of the Senate and House of Representatives, immediately becomes the POTUSA without taking any oral or subscribed oath or affirmation of office. The lacking of a requirement to take an oath of office can only mean that the election of the President of the United States of America by the Electors appointed by the States makes the Office of President of the United States of America an office under the authority of the Articles of Confederation of November 15, 1777, and not an office under the authority of the Constitution of September 17, 1787. This is so because Article VI Clause 3 of the Constitution of September 17, 1787 requires all executive officers of the Government of the United States to be bound by oath or affirmation *“to support this Constitution,”* the Constitution of September 17, 1787. Because the Articles of Confederation establishes a Confederacy of independent States, which binds the confederated States but not the delegates of the confederated States, there is no provision in the Articles for any delegates or officers to take oaths. As the Confederacy acted by and through the majority of the member States, no oath of office was needed or required of the past or present officers; hence, no oath or affirmation is required in order to fill the office of the President of the United States of America. The same is true of person receiving the second greatest number of votes counted with regards to the VPOTUSA.

The President of the United States of America is the highest political office and it is still elected by the States. The Twelfth, Twentieth, Twenty-Second and Twenty-Third Amendments have changed or modified the Presidential Electoral process, however, the Office of President of the United States of America remains vested with the executive power. The Twelfth Amendment amends only Article II Section 1 Clause 3 of the Constitution of September 17, 1787, to conform to the current political party practice of pairing a candidate for president with a candidate for vice president.

#### **12.4.1.5    Art. II:1:4 – Election Day**

**Constitution of September 17, 1787 – Article II Section 1 Clause 4:** *“The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.”*

Under Article II Section 1 Clause 4, the Confederation Congress may set the time of choosing the Presidential Electors and the day on which they shall cast their votes for the POTUSA & VPOTUSA, which day must be the same throughout the “United States”. The Confederation Congress first exercised this power, by means of its September 13, 1788 resolution, for the first election following the establishment of the Constitution of September 17, 1787. Currently Electors are chosen on the first Tuesday after November 1 in the year before the term of the POTUSA expires and the Electors cast their votes on the first Monday after December 12 of that same year.

The term “United States,” as used in Article II Section 1 Clause 4, must be singular geographic and mean the United States Union of federated States because only the federated States have Senators and Representative in the Congress of the United States. Prior to 1961, the District of Columbia did not participate in the election process for the President of the United States since it was not permitted any Electoral College. But since the March 29, 1961 ratification of the 23<sup>rd</sup> Amendment, the District of Columbia is treated like a federated State of the United States Union for purposes of electing the President of the United States of America. Under the 23<sup>rd</sup> Amendment, the District of Columbia is permitted a number of Electoral College equal to the number that it would be entitled to if it was a federated State of the United States Union, which is currently three. Since March 29, 1961, the District of Columbia has participated in the presidential election process.

#### **12.4.1.6    Requisites to Office of President of the United States of America**

The Constitution is silent as to what qualifications the persons shall have who are elected to President of the United States of America and Vice President of the United States of America; this means there are no qualifications for the President and Vice President of the United States of America to hold their offices under the authority of the Articles of Confederation. However, an adopted Constitution of September 17, 1787 requires that the President of the United States of America to fill the “Office of President.” Therefore, if the Constitution is ever adopted, the President of the United States of America would have to meet the requisites of the Office of President at the time of adoption.

#### **12.4.1.7    Art. II:1:5 - Office of President**

**Constitution of September 17, 1787 – Article II Section 1 Clause 5:** *“No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall*

*be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”*

Article II Section 1 Clause 5 creates the Office of President under the authority of the Constitution of September 17, 1787. The person who fills this office has the official title of “President.”

#### **12.4.1.7.1 Requisites for Office of President**

Article II Section 1 Clause 5 sets the requisites for the “*Office of President*.” At the time of the adoption of this Constitution, the requisites for the Office of President are to be a natural born Citizen, or a “Citizen of the United States,” 35 years of age and fourteen-year resident within the United States. The citizenship requisite for the Office of President is to be either a natural born Citizen of one of the confederated States or a federal “citizen of the United States.”

Ascertaining the meaning of the term “United States,” as used in Article II Section 1 Clause 5, requires special analysis. A natural born citizen of one of the confederated State would have had permanent residence (domicile) in the State of his citizenship since birth and therefore would have been a resident there for at least 35 years, the minimal age requisite. On the other hand, there is no minimal number of years attached to being a “citizen of the United States.” Therefore, the term “United States,” as used in Article II Section 1 Clause 5, must be a reference to the United States Union. At the time of the adoption of this Constitution, the person who fills the Office of President must be a 14 year resident (permanent or temporary) within the United States Union of federated States.

The “Office of President” is the only presidential office with requisites. There are no requisites for either the Office of President of the United States of America or for the Office of President of the United States.

#### **12.4.1.7.2 The Executive Office of the Government of the United States**

The exact nature of the Article II Section 1 Clause 5 “*Office of President*” is unknown as that Office has never been occupied. Article II Section 1 Clause 5 reveals that the person who fills the Office of President must adopt “this Constitution.” Adoption of this Constitution is accomplished by taking and subscribing the Article VI Clause 3 oath of office. The oath in Article VI Clause 3 was intended to bind the legislative, executive, and judicial officers of “this Constitution,” into a new government, the Government of the United States. Also, the executive powers are delegated to the Office of President under Article II Section 2. Therefore, the only thing known for certain about the Office of President is that it is the executive office of the Government of the United States under the authority of the Constitution of September 17, 1787.

No manner for filling the “*Office of President*” is provided in this Constitution. Therefore, per Article II Section 2 Clause 2, the President of the United States of America “*shall nominate, and by and with the Advice and Consent of the Senate, shall appoint*” a person to fill the “*Office of President*.” A person appointed to the Office of President would not be able to exercise any of the powers of that office prior to adopting the Constitution of September 17, 1787.

#### **12.4.1.7.3 Offices of President and POTUSA to be Held by the Same Single Person**

Prior to taking the Article VI Clause 3 oath, the person elected to the President of the United States of America is called the “President Elect”. The purpose of having the Presidential Inauguration is for the President Elect to fill a second office, the Office of President. Under Article II Section 2, the Office of President is delegated the executive powers and, under Article II Section 1, those executive powers are vested in the President of the United States of America. But the only way for a person to become vested with the powers of an office is by filling the office. The Office of President is filled by appointment, followed by the appointee taking of the Article VI Clause 3 oath of office. Therefore, upon his election, the first official act of the President Elect must be to appoint himself to the Office of President so that at the Presidential Inauguration, the President Elect can take the Article VI Clause 3 oath of office as the “President.” After the inauguration, if the correct oath is taken, the “President of the United States of America,” the executive Officer under the Articles of Confederation, will also be the “President,” the executive Officer under the Constitution of September 17, 1787, fully vested with all of the executive powers granted to the Office of President in Article II Section 2, and fully entitled to constitutional “Compensation” for his services under Article II Section 1 Clause 7.

#### **12.4.1.8    Art. II:1:6 – Vacancy of POTUSA to be Filled by VPOTUSA**

**Constitution of September 17, 1787 – Article II Section 1 Clause 6:** *“In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President . . .”*

Article II Section 1 Clause 6 describes the only constitutional duty of the Vice President of the United States of America: to discharge the powers and duties of the Office of President of the United States of America for the case where the President of the United States of America no longer occupies his office or is incapable of his duties. The word “President,” as used in this clause is a reference to the President of the United States of America since it is being used in association with the Vice President of the United States of America.

#### **12.4.1.9    Art. II:1:7 – Compensation for Services of the POTUSA**

**Constitution of September 17, 1787 – Article II Section 1 Clause 7:** *“The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.”*

Article II Section 1 Clause 7 entitles the President of the United States of America to compensation for his services, which compensation shall not be diminished during the period for which he was elected. A federal income tax on the compensation of the POTUSA would diminish that compensation. Therefore, the POTUSA has constitutional protection from federal income taxation. The word “President,” as used in Article II Section 1 Clause 7, is a reference to the President of the United States of America since the POTUSA is the only “President” which is elected.

In order for the POTUSA to be entitled to constitutional “Compensation,” the POTUSA would have to take the Article VI Clause 3 oath of office, which confirms that the Offices of “President” and “President of the United States of America” are required to be held by the same person under an adopted Constitution of September 17, 1787. A POTUSA receiving constitutional “Compensation” implies a



POTUSA who has filled the Office of President. George Washington refused pay in his inaugural address to avoid any appearance of occupying the Office of President. Furthermore, by completely avoiding the Article VI Clause 3 subscribed oath of office, Washington was able to avoid possible charges of treason.

Unlike the President of the United States of America, the President of the United States explicitly incurs an income tax liability by the 1913 Income Tax Law. We know the President of the United States pays federal income taxes using a form 1040, because every April the President of the United States shares his tax return with the media and the media shares that information with the public. The compensation of the POTUS has no constitutional protection from federal income taxation, proving that the office of POTUSA and office of POTUS are two distinct offices.

#### **12.4.1.10 Art. II:1:8 – POTUS Oath of Office**

**Constitution of September 17, 1787 – Article II Section 1 Clause 8:** *‘Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:— “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”’*

Article II Section 1 Clause 8 contains the oath of office that the President of the United States is required to take *“before he enter on the execution of his Office.”*

##### **12.4.1.10.1 Non-binding oath**

The Article II Section 1 Clause 8 does not specify that the oath of office for the President of the United States shall be binding as the Article VI Clause 3 oath does. The English Statute of Frauds, enacted in 1677, requires all contracts for employment extending beyond a year to be in writing; thus the Constitution, written a hundred years later, describes the essentials of the contract that binds all government officials who take the Article VI Clause 3 written oath of office, but does not bind the President of the United States, who takes an oral oath of office. The oral oath of Office of President of the United States does not satisfy Article VI Clause 3 oath, because the only oral oath that is binding is the testamentary oral oath to tell the truth. An oral oath is generally not binding, because it cannot be evidenced in a court of law.

The President of the United States is not required to take a written oath of office because he is an employee at the will of the Congress, who can be fired at any time for any reason, or no reason, by an Article I impeachment. An oath is a solemn appeal to God to witness one’s determination to tell the truth or keep a promise or the words of the promise itself. The oath of office of the President of the United States is his promise to do a “good job” as the chief administrator of the territory owned by or ceded to the United States of America and as an employee of the Congress. The President of the United States takes an oath to and before the Senate because, as the Confederation Congress, the Senate is ultimately responsible for management of the territory and other property belonging to the United States of America.

##### **12.4.1.10.2 Oath to Defend the Assets of the United States of America**

We know that the “Constitution of the United States” is not a written constitution because a written constitution would require an oath that binds the officers to support the constitution. The term “United

States,” in a singular geographical context, means the United States Union. The word “Constitution,” as used in Article II Section 1 Clause 8, means “composition.” Therefore the phrase “Constitution of the United States” is a reference to the territorial composition of the United States Union. The President of the United States takes an oath to preserve, protect, and defend the territorial composition of the United States Union.

The Declaration of Independence established that the purpose of governments is to secure the unalienable rights of the people. Yet, the President of the United States is a protector of assets owned by the United States of America, not a protector of the people’s unalienable rights. The President of the United States heads the Administration that administers the United States Union and the other the territory owned by or ceded to the United States of America.

#### **12.4.1.10.3 Location of the POTUS Oath is Part of a Deceptive Scheme**

The legislative duties of the President of the United States are described in Article I Section 7, making that office a position of employment in the legislative branch. So why does the oath of office for the President of the United States appear in Article II where the executive powers are described?

It is a well settled principle of written law that the place where a law is written must not influence its interpretation. But what we can infer from the location of the oath of office for the President of the United States is that the framers intended to confuse the uninformed readers concerning the adoption of the Constitution of September 17, 1787. Article II Section 1 Clause 5 requires that the Constitution of September 17, 1787, be adopted by the person who fills the “Office of President,” which is done by taking the Article VI Clause 3 written oath “to support this Constitution.” By placing the oral oath of office for the President of the United States at Article II Section I Clause 8, most people could easily be fooled into incorrectly thinking that a person elected to be the President of the United States of America was, during the presidential inauguration, adopting the Constitution of September 17, 1787, by reciting the Article II Section 1 Clause 8 oral oath. The Framers of the Constitution were being cautious concerning their scheme to prevent the formation of a constitutional limited government under the Constitution of September 17, 1787. Provisions were provided in the Constitution so that the scheme could either go forward if it appeared that no one had caught on to the scheme or, the scheme could be aborted. The point of time for deciding whether or not to go forward with the scheme was at the presidential inauguration when the President Elect would take his oath of office. If the President Elect subscribed the Article VI Clause 3 oath of office, then the President of the United States of America and the “President” would be combined into one person and the people would have a constitutional limited government under the Constitution of September 17, 1787. But, if the President Elect took the Article II oral oath of office then, the President of the United States of America and the President of the United States would be combined into one person and the people would NOT have a constitutional limited government under the Constitution of September 17, 1787. Should the decision be made to go forward with this scheme, then the placement of the oral oath in Article II would provide cover so that people could not so easily notice that the Constitution of September 17, 1787, had not been adopted. The people would incorrectly think that the President Elect had taken the proper oath of office to adopt the Constitution and establish a government bound by the Constitution of September 17, 1787, when in fact the people did NOT have a constitutional limited government that was bound to obey the Constitution. Without an adopted Constitution, the government officials had a license to not tell the truth, that the

territorial jurisdiction of the United States of America was limited to the territory owned by or ceded to the United States of America.

#### **12.4.2 Article II Section 2 – Executive Powers Delegated to the “Office of President”**

The person who fills the Article II Section 1 Clause 5 “Office of President” has the official title of “President.” Article II Section 2 is a delegation of executive powers to the Office of President by the people through their States. The following phrases of “the President shall be Commander in Chief,” “the President shall have power,” and “he shall have power,” all found in Article II Section 2, indicate that the person who fills the Office of President will be vested with the powers delegated to that office. A person who is appointed to the “Office of President” and who takes the Article VI Clause 3 oath “to adopt this Constitution” fills the Office of President and is thereafter the person holding the official title of “President,” vested with the executive powers delegated in Article II Section 2. An adopted Constitution of September 17, 1787 requires the President of the United States of America to fill the Office of President;” Therefore, under an adopted Constitution of September 17, 1787, the “President of the United States of America” would also be the “President.”

The Constitution of September 17, 1787 was never adopted. Therefore, the Office of President has remained vacant and the powers that were delegated to the Office of President were never vested in a person under Article II Section 2. Most of the powers delegated in Article II Section 2 were powers previously granted to the Confederation Congress, under the Articles of Confederation. Upon the failure to adopt the Constitution of September 17, 1787, the Confederation Congress, now called the Senate, delegated to the President of the United States of America those powers identified in Article II Section 2 which they already possessed.

##### **12.4.2.1 Art. II:2:1 – Powers of the Commander in Chief of the Confederacy Military**

**Constitution of September 17, 1787 – Article II Section 2 Clause 1:** *“The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.”*

Per Article II Section 2 Clause 1, the person who fills the Office of President, the “President,” shall be the Commander in Chief of the Army and Navy of the United States of America, and of the State Militia, when called in the services of the United States of America. The President may require the opinion of the principal Officer in each executive department regarding the duties of their respective Offices. The President shall have power to grant Reprieves and Pardons for Offenses against the United States of America government.

The Confederation Congress was previously granted the powers of the Commander in Chief of the military forces of the United States of America Confederacy under Article IX Section 5 of the Article of Confederation: *“The united states in congress assembled shall have authority . . . to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and*

*thereupon the legislature of each state shall appoint the regimental officers, raise the men and clothe, arm and equip them in a soldier like manner, at the expense of the united states, and the officers and men so clothed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled. . . .”*

Under Article IX Section 5 of the Article of Confederation, the Confederation Congress was previously granted to power of oversight and directing any appointed civil officers and committees, which would include the power to require the opinion, in writing, of the principal Officer in each executive department regarding the duties of their respective Offices: *“The united states in congress assembled shall have authority . . . to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states **under their direction**”*

The Confederation Congress was never granted the power to grant Reprieves and Pardons for Offenses against the United States of America. Therefore, upon the failure to adopt the Constitution of September 17, 1787, the Confederation Congress was able to delegate to the President of the United States of America only their powers of the Commander in Chief and their power to require the opinion of principal officers in each executive departments relating to the duties of their respective offices. The President of the United States of America, under the ratified but un-adopted Constitution of September 17, 1787, has no power to grant reprieves and pardons for offenses against the United States of America.

#### **12.4.2.2    Art. II:2:2 – Powers Exercised by and with the Advice and Consent of the Senate**

**Constitution of September 17, 1787 – Article II Section 2 Clause 2:** *“He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.”*

Per Article II Section 2 Clause 2, the person who fills the Office of President, the “President,” is delegated certain powers. But the Article II Section 2 Clause 2 delegation of powers, by the people through their States, to the “President” to make treaties and appointments, *“by and with the Advice and Consent of the Senate,”* is misleading because it gives impression that the “President” is being delegated discretionary government powers. In reality, Article II Section 2 Clause 2 does little more than provide a convenient single person to represent the Senate of a hundred members during the processes of making Treaties and appointments. Treaties and appointments made by the “President” must be made by and with the advice and consent of the Senate, which means the Senate retains and is exercising all the discretionary government power during the processes of making of Treaties and appointments. The President acts only a “front person”/agent for the Senate during the process of making Treaties and appointments. Because the Confederation Congress was granted the powers to make Treaties and appointments under the Articles of Confederation, the below analysis on the power to make Treaties and appointments proves that the word “Senate” is just a new name, under the Constitution of September 17, 1787, for the Confederation Congress.

#### **12.4.2.2.1 Power to Make Treaties**

The Confederation Congress was previously granted the power to make Treaties under Article IX Clause 1 of the Articles of Confederation: “*The united states in congress assembled, shall have the sole and exclusive right and power of . . . entering into treaties and alliances.*” Notice under Article IX Clause 6 of the Articles of Confederation, the exercise of the power to enter into treaties expressly required the assent of 9 States, which is the equivalent to the Article II Section 2 Clause 2 of the Constitution of September 17, 1787 requirement that two thirds of the Senators present concur.

On the failure to adopt the Constitution of September 17, 1787, the Confederation Congress simply appointed the President of the United States of America to represent them as their agent during the process of the making of Treaties while retaining their sole and exclusive right of entering Treaties, including the exercise of all discretionary government powers associated with making Treaties.

#### **12.4.2.2.2 Power to Make Appointments**

The Confederation Congress was previously granted power to appoint Ambassadors, other public Ministers and Consuls, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, under Article IX Section 5 of the Article of Confederation: “*The united states in congress assembled shall have authority . . . to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction.*” Under Article IX Clause 6 of the Articles of Confederation, the power to appoint is not a power requiring the assent of 9 States to exercise. Therefore Article II Section 2 Clause 2 of the Constitution of September 17, 1787 does not require two thirds of the Senators present to concur when the “President” makes an appointment, “*by and with the advice and consent of the Senate.*”

On the failure to adopt the Constitution of September 17, 1787, the Confederation congress simply appointed the President of the United States of America to represent them as their agent during the process of the making of appointments while retaining their discretionary government powers of choosing the person to fill offices of Ambassadors, other public Ministers and Consuls, and all other Officers of the United States, whose Appointments are not herein otherwise provided for.

As there was no “supreme Court” at the time the Articles of Confederation was ratified, the Confederation Congress never possessed the power to appoint “*Judges of the supreme Court.*” Therefore, the President of the United States of America, under the ratified but un-adopted Constitution of September 17, 1787, is unable to “*nominate, and by and with the advice and consent of the Senate,*” appoint Judges to the “*one supreme Court*” or any other Courts to be ordained and established under Article III.

The Confederation Congress always had the right to delegate their power of appointment. Article II Section 2 Clause 2 of the Constitution of September 17, 1787 also includes a reservation by the Confederation Congress to vest the appointment of inferior officers, as they think proper, in the “President” alone, in the Courts of Law, or in the Heads of Departments. On failure to adopt the Constitution of September 17, 1787, any power of appointment that would have been delegated in the “President” had the Constitution had been adopted were instead directly delegated to the President of the United States America by the Confederation Congress.



#### **12.4.2.3    Art. II:2:3 – Power of Appointments During the Recess of the Senate**

**Constitution of September 17, 1787 – Article II Section 2 Clause 3:** *“The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.”*

Under Article II Section 2 Clause 2, the person who fills the Office of President, the “President,” shall nominate, *“and by and with the advice and consent of the Senate,”* shall appoint certain officers of the United States of America government. Article II Section 2 Clause 3 provides a provision for the President to temporarily fill vacancies which occur during the recess of the Senate.

As mentioned in the previous section concerning Article II Section 2 Clause 2, the Confederation Congress always had the power make appointments and the ability to delegate that power. Therefore, on the failure to adopt the Constitution of September 17, 1787, the Confederation Congress simple delegated to the President of the United States of America the power to make temporary appointments to fill vacancies which occur during the recess of the Confederation Congress.

#### **12.4.3    Article II Section 3 – Responsibilities of the “Office of President”**

**Constitution of September 17, 1787 – Article II Section 3:** *“He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.”*

Article II Section 3 identifies the duties and responsibilities of the person who fills the Office of President, the “President.” On the failure to adopt the Constitution of September 17, 1787, the Confederation Congress simply delegated the duties mentioned in Article II Section 3 to the President of the United States of America. For those duties which involved the exercise of a government power, the Confederation Congress also delegated to the President of the United States of America the pertinent powers needed to fulfill his delegated duties and responsibilities. As shown below, all government powers pertinent to fulfilling the duties delegated to the President of the United States of America were powers already possessed by the Confederation Congress, and therefore were powers that could had been delegated by the Confederation Congress.

The Confederation Congress was previously granted to power to adjourn itself under IX Clause 7 of the Articles of Confederation: *“The congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states.”* The power of the Confederation Congress to convene/adjourn the House of Representatives is implied by its power to direct other committees appointed by the Congress. On failure to adopt the Constitution of September 17, 1787, the Confederation Congress appointed the elected members of the House of Representatives to a committee under the authority of the Articles of Confederation. As a committee appointed by the Confederation Congress, the Confederation Congress had to power to direct the committee, including the power to convene/adjourn the committee: *“The united states in congress assembled shall have authority . . . to*



*appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction.”*

The Confederation Congress was previously granted to power to receiving Ambassadors and other Public Ministers under IX Clause 1 of the Articles of Confederation: *“The united states in congress assembled, shall have the sole and exclusive right and power of . . . of sending and receiving ambassadors.”*

Under the Northwest Ordinance, the district governor appointed by the Confederation Congress was ordained with the power to enforce the laws of the United States of America in the Northwest Territory, the complete territorial jurisdiction of the United States of America at that time. The Confederation Congress cannot delegate a power which it does not already possess. Under Article I Section 8 Clause 15 of the Constitution of September 17, 1787, the Confederation Congress is confirmed to have the power to enforce the laws of the United States of America, expressly with the military power of the Confederacy, if necessary. Therefore the Confederation Congress was clearly capable of delegating to the President of the United States of America the power to enforce the laws of the United States of America under Article II Section 3.

The Confederation Congress was previously granted to power to commission all officers of the United States under Article IX Clause 4 of the Articles of Confederation: *“The united states in congress assembled shall also have the sole and exclusive right and power of . . . appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states.”*

#### **12.4.4 Article II Section 4 – Impeachment of Governmental Officers**

**Constitution of September 17, 1787 – Article II Section 4:** *“The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors.”*

The word “President,” as used in Article II Section 4 is a reference to the President of the United States of America since it is being used in combination with the Vice President of the United States of America. The President of the United States of America, Vice President of the United States of America, and all other civil officers of the United States of America government may be impeached. Unlike the impeachment of government employees under Article I, which does not require a reason for impeachment, the impeachment of the government officers under Article II requires a reason for impeachment, including *“for, and Conviction of, treason, bribery, or other high crimes and misdemeanors.”*

Per Article I Section 3 Clause 6, the POTUS may be subject to an Article I impeachment, which proves that the Office of the POTUS and the Office of the POTUSA are two different offices which would not be combined in same single person under an adopted Constitution of September 17, 1787.

#### **12.5 Article III – The Judicial Branch**

**Constitution of September 17, 1787 – Article III Section 1:** *“The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold*

*their Offices during good Behaviour, and shall, at Stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.*

On June 21, 1788, upon the Ratification of the Constitution of September 17, 1787 by nine States, the “one supreme Court” was created and vested with the judicial power of the United States of America. In addition, the Congress may from time to time ordain and establish other Article III inferior Courts, which would also be vested with the judicial power of the United States of America. Ratification of the Constitution of September 17, 1787 by nine States also created the Article III Offices of Judges in the United States corporation structure. But, Article III leaves to “the Congress” the job of determining the number of Judges of the “one supreme Court.”

The power of the Confederation Congress to ordain was first exercised in the Northwest Ordinance to ordain a temporary district government for the Northwest Territory. The power to ordain is derived from proprietary/military power over territory owned by the Confederacy. That the power to ordain has been retained by the Confederation Congress, now called the Senate, is confirmed in Article III Section 1 of the Constitution of September 17, 1787. Only the Confederation Congress can ordain and establish other Article III Courts inferior to the “one supreme Court” and vest them with the judicial Power of the United States of America.

For a Judge of an Article III Court to be able to exercise judicial power vested in the Courts, the Constitution of September 17, 1787 would have to be first adopted by the Senators, the Representatives, and the President of the United States of America, per Article VI Clause 3. Then, per Article II Section 2 Clause 2, the “President”/“President of the United States of America” would have to nominate, and by and with the advice and consent of the Senate, appoint the judges of the “one supreme Court” and any other inferior Article III Courts ordained and established by the Congress. Finally, Article VI Section 3 required the Judges appointed to the Article III Courts to subscribe an oath “to support this Constitution,” the Constitution of September 17, 1787. Also, no religious test shall ever be required as a qualification of any Office or public Trust. In the exercise of the judicial power of the United States of America, such Judges discover the law.

The Judges of these Article III Courts were to hold their office during good behavior, which means they were appointed to lifetime tenure. Also, these Article III Judges were to receive for their services a compensation which shall not be diminished (taxed) during their continuance in office as an officer of the United States.

The only judicial powers of the United States of America that the ratifying States possessed to delegate to the Article III Courts, extended over the territory owned by or ceded to the United States of America that was located within the exterior borders of the ratifying States. Therefore, territorial jurisdiction of the Article III Courts was to be limited to the United States Union. However, legal requirements of a successful Confederacy demand that some kind of convenient means for the settlement of issues between parties from different States be available. It would be a matter of necessity. Issues like the rendition of fugitives, the provision of neutral courts for the settlement of legal issues between persons of different States plus the jurisdiction mentioned in Section 2 of Article III would be possible given proper consent of the parties. Except for Louisiana, all States of the United States of America Union are English common-law States, where the inhabitants are not subject to written law. Therefore, any application of

the Article III Courts beyond the United States would be subject to an accommodation of the English common-law.

## **12.6 Article IV – Relationships of States with Each Other & Federal Government**

Article IV outlines the relationships of the several State governments between each other and between themselves and the United States of America government. Most of the relational issues addressed in Article IV Sections 1 & 2 are previously addressed in the Article IV of the Articles of Confederation. The several state governments had ratified the Articles of Confederation, thereby becoming bound by the terms of that document, as it pertained to the confederated States of the United States of America Union. The same several State governments later ratified the Constitution of September 17, 1787, thereby becoming bound by the terms of that document, as it pertained to the federated States of the United States Union.

### **12.6.1 Article IV Section 1 – Full Faith and Credit**

**Constitution of September 17, 1787 – Article IV Section 1:** *“Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.”*

The **“Full Faith and Credit”** clause of Article IV Section 1 of the Constitution of September 17, 1787 confirms the duty of the several State governments of the ratifying States to respect the *“public acts, records, and judicial proceedings of every other state.”* The state governments of the ratifying States first become obligated to this duty under Article IV Clause 3 of the Articles of Confederation: *“Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.”* Therefore, Article IV Section 1 of the Constitution of September 17, 1787 should be interpretation as a confirmation of that obligation of the several State governments, as it pertains to the federated States.

A Pennsylvania court explained in 1786 that this provision in the Articles of Confederation did not direct that *“executions might issue in one state upon the judgments given in another”*, but rather was *“chiefly intended to oblige each state to receive the records of another as full evidence of such acts and judicial proceedings.”*<sup>54</sup>

The Confederation Congress is expressly granted to power to create the general laws which prescribe the manner in which such acts, records and proceeding shall be proved, and the effect thereof. The Confederation Congress creates the general laws through the enactment of laws by the Congress of the United States.

### **12.6.2 Article IV Section 2 - Rights of State Citizens; Rights of Extradition**

#### **12.6.2.1 Art. IV:2:1 - Privileges & Immunities**

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<sup>54</sup> *James v. Allen*, [1 Dall. \(1 U.S.\) 188, 191–92](#) (Pa. 1786).

**Constitution of September 17, 1787 – Article IV Section 2 Clause 1:** *“The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”*

Under Article IV Clause 1 of the Articles of Confederation, the “free inhabitants” of each of the confederated States were entitled to all of the Privileges and Immunities of the free citizens in the several Confederated States of the United States of America Union: *“the free inhabitants of each of these states, paupers, vagabonds and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states.”* Article IV Section 2 Clause 1 Constitution of September 17, 1787 extends the privileges and immunities of the free citizens in the several confederated States to the citizens of each of the several federated States of the United States Union. Article IV Section 2 Clause 1 proves that each of the federated States have their own State citizens.

The U.S. Supreme Court has held that Article IV Section 2 Clause 1 means that a state may not discriminate against citizens of other states in favor of its own citizens. According to Justice Washington’s opinion in *Corfield v. Coryell*, the Article IV “Privileges and Immunities” are things that “are, in their nature, fundamental, which belong, of right, to citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union . . . [including] the following general heads: Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety.”<sup>55</sup>

#### **12.6.2.2    Art. IV:2:2 – Extradition of Fugitives**

**Constitution of September 17, 1787 – Article IV Section 2 Clause 2:** *“A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.”*

The “**Extradition of Fugitives**” clause of Article IV Section 2 Clause 2 of the Constitution of September 17, 1787 confirms the duty of the several State governments of the ratifying States to deliver up fugitives of justice found in another State, to be removed to the State from which the fugitive was fleeing. The several State governments of the ratifying States first become obligated to this duty to deliver up fugitives found in any of the confederated States under Article IV of the Articles of Confederation. Under Article IV Section 2 Clause 2 of “this Constitution,” this obligation of the several States governments has been expanded to include the duty to deliver up fugitives found in any of the federated States. If a fugitive of justice is found in the federated of a State government, then that State government has the duty to deliver up the fugitive.

#### **12.6.2.3    Art. IV:2:3 – Fugitive Slaves**

**Constitution of September 17, 1787 – Article IV Section 2 Clause 3:** *“No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any*

<sup>55</sup> *Corfield v. Coryell*, 6 F. Cas. 546 (C.C.E.D. Pa. 1823) (No. 3,230).

*Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.”*

The “*Fugitive Slaves*” clause of Article IV Section 2 Clause 3 of the Constitution of September 17, 1787 placed a new duty on the several State governments of the ratifying States to deliver up fugitive slaves found in another State on the claim of the party to whom labor may be due. If a fugitive slave was found in the federated of a State government, then that State government had the duty to deliver up the fugitive slave. No State law could override this obligation of the State governments.

No similar duty was placed on the several State governments under the Articles of Confederation. Therefore Article IV Section 2 Clause 3 should be interpreted as a new obligation on the several State governments of the ratifying States.

### **12.6.3 Article IV Section 3 – New States; Territorial Rules and Regulations**

#### **12.6.3.1 Art. IV:3:1 – Admission of States of the United States Union**

**Constitution of September 17, 1787 – Article IV Section 3 Clause 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.”*

Article IV Section 3 Clause 1 authorizes the admission of new States to United States Union of federated States. This section clarifies the general admission process.

##### **12.6.3.1.1 Erecting States within the Jurisdiction of Another State**

Section 3 Clause 1 prohibits the erection of any State within the jurisdiction of any other State without the consent of the legislature of the State concerned as well as of the Congress. Yet, a federated State of the United States Union was erected within the jurisdiction of each of the original confederated States and each of the former territorial States. In the case of the original confederated States, the process of ratifying the Constitution of September 17, 1787 itself provided the required consent. In the case of the territorial States, the admission process itself provided the required consent.

##### **12.6.3.1.2 The Double Admission of the 37 Admitted States**

The process of admitting a territorial States into the United States of America Union is actually a double admission process involving two different States and two different Unions. During the admission process, all territory located within the exterior borders of the territorial State that is owned by the United States of America is erected into a State different from the territorial State and legislatively admitted to the United States Union, thereby becoming a federated State of the United States Union. Then the former territorial State is admitted to the United States of America Union, thereby transformed into a new independent confederated State of the United States of America Union. Through this doubled admission process, the State government of an Admitted States became a united in two different Unions of States.

#### **12.6.3.1.2.1 Admission to the United States Union of Federate States**

When a territorial State acquired 60,000 inhabitants, the inhabitants were permitted under the Northwest Ordinance to form a permanent State constitution and government. Article 5 of the Northwest Ordinance provides a provision in which a territorial State could be admitted into the “perpetual” Union “*on an equal footing with the original States in all respects whatever.*” The “equal footing” clause meant, among other things, that any territory located within the exterior borders of the territorial State that was still owned by the United States of America at the time of admission would have to be erected into a federated State of the United States Union, different from the former territorial State. If the permanent State constitution of a territorial State was accepted by the Congress of the United States, then the federated State would be erected and made a member of the United States Union.

The general details of the legislative process to admit States to the United States Union are as following:

- 1) **Enabling Act** - Congress passed an Act enabling the people of a territorial State to form a permanent state constitution and government. An “Enabling Act” gave formal authorization to the people of the territorial State to form for themselves a permanent constitution and state government, and confirmed that thereafter, the said State shall be admitted into the Union upon the same footing with the original States, in all respects whatever. However, since Article 5 of the Northwest Ordinance already promised the territorial States admission upon acquiring 60,000 inhabitants, it was not uncommon for the people of a territorial State to directly proceed to forming a permanent constitution and government upon acquiring 60,000 inhabitants, without petitioning the Congress of the United States and without the enactment of an “Enabling Act.” **Table 2** lists the 37 admitted States and the “Enabling Act,” if any, for each of the listed States. Those States without an identified “Enabling Act” had proceeded to form a State Constitution and government without the enactment of an “Enabling Act.
- 2) **State Constitution Convention** - The people of the territorial State held their State Constitution Convention to form their permanent state constitution and government. The delegates of the constitution convention would convene and draft their state constitution, present the constitution to the people for ratification, and then adjourn. The ratified state constitution would then be presented to the Congress of the United States for approval.
- 3) **Act to Admit the Federated State** - When the Congress of the United States approved the ratified state constitution of a territorial State, all territory located within the exterior borders of the territorial State that was owned by the United States of America was erected into a federated State and admitted into the United States Union. If the permanent State constitution was approved upon its initial presentation, Congress enacted an Act to unconditionally admit the new federated State to the United States Union. Upon the admission of the new federated State to the United States Union, the state constitution becomes valid law under which the new State government would begin operating and the prior district government would cease governing the newly admitted State. The elections for governor, lieutenant governor, members of the State legislature, U.S. Congressional Representatives for the State are held. The elected officers take their oath of office and the State legislators would convene and proceed to elect two Senators for the State. The U.S. Congressional Representatives and Senators for the State then go to the District of Columbia to be present when the Congress of the United States would next convened. For each of the 37 admitted States, **Table 3** identifies the specific Act, Resolution, or Proclamation that admitted a specific State into the United States Union.



Some of the listed States show an Act or Resolution which only conditionally admitted the State, conditioned upon the correction of some deficiency of the State Constitution that was expressed in the Act/Resolution. Subsequent to the correction of any expressed deficiency of the State Constitution, upon the issuance of a Proclamation by the President of the United States, the new federated State would be officially admitted to the United States Union.

- 4) **Act to Extend the Laws of the United States into the Federated State** - For States admitted to the United States Union, the laws of the United States of America must generally be expressly given the same force and effect within the admitted State as elsewhere within the United States because these States did not ratify the Constitution of September 17, 1787. **Table 2** identifies the specific Acts which gives the laws of the United States of America the same force and effect within the federated States admitted to the United States Union as elsewhere within the United State. Notice that though the States of Kentucky, Maine, and West Virginia were admitted to the United States Union, **Table 2** indicates that Article I Section 8 Clause 17 of the Constitution is the means by which the laws of the United States are given “the same force and effect within those States. Kentucky, Maine, and West Virginia were all part of an original State at the time the Constitution was ratified and subsequently to the ratification, split off from their “mother State.” Therefore, Kentucky, Maine and West Virginia became bound by Article I Section 8 Clause 17 at the same time that their “mother State” ratified the Constitution.
- 5) **Act to Form a Federal Judicial District from the Federated State** - A newly admitted federated State is formed into a federal judicial district. Since the federated States consist of territory owned by the United States of America, then the federal judicial districts also consist of territory owned by the United States of America. **Table 2** identifies the specific Acts which created a judicial district from each of the federated States that were legislatively admitted into the United States Union. In most cases, the Act which gives the laws of the United States of America the same force and effect within an admitted federated State also makes the admitted federated State into a judicial district. Where this is the case, the column in **Table 2** that is labeled “Creation of a Judicial District” contains the “\*” character. If a “\*” character appears, you must go the column labeled “Extension of United States Laws into the State” to identify the specific Act which created a judicial district from the admitted federated State.

#### **12.6.3.1.2.2 Admission to the United States of America Union of Confederate States**

Per Article 5 of the Northwest Ordinance, a territorial State was admitted into the United States of America Union, on equal footing with the original 13 States, by the admission of the State’s delegates, now called Senators, into the Congress, now called the Senate of the United States of America. The erection of a federated State and the admission of the federated State into the United States Union assured the admission of the associated territorial State into the United States of America Union since the admission process was a two-step process involving two different States and two different Unions. Shortly after the admission of the federated State to the United States Union, the people of the territorial State would begin to organize their State government according to their State Constitution. The Congressional Representatives and Senators chosen by the territorial State would then report to the District of Columbia to participate in the legislation process of the two-house Congress of the United States. Shortly thereafter, when the Senate of the United States of America would next convene, the new State’s Congressional Senators would present themselves to the Senate to be unceremoniously and

unnoticeable accepted into the Senate of the United States of America. As a result of accepting the State's Congressional Senators into the Senate of the United States of America, the former territorial State was transformed into a new independent confederated of the United States of America Union.

There is "*A chronological list of senators since the First Congress in 1789*" available from the government's web site that is a great resource to determining when a confederated State was admitted to the United States of America Union.<sup>56</sup> **Table 4** contains data extracted from the chronological list of Senators that is pertinent for determining when a confederated State was admitted to the United States of America Union. The date of admission would not be until both of the State's Senators were admitted into the Senate of the United States of America.

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<sup>56</sup> <http://www.senate.gov/artandhistory/history/resources/pdf/chronlist.pdf>

Table 2 – Acts Related to the Admission of Federated States to the United States Union

Name of State	ENABLING ACT	EXTENTION OF U.S. LAWS INTO THE STATE	CREATION OF A JUDICIAL DISTRICT
Add the prefix of "State of" to the below listed state names	"the inhabitants of the Territory of <__> are hereby, authorized to form for themselves out of said Territory, a State government, with the name of the <__>."	"the laws of the United States shall have the same force and effect within <__>, as elsewhere in the United States."	"the said state shall be one district, and be called the <__>" * means the same as the statute which extends the laws of the United States into the State
Act	Date of Act	Act	Date of Act
Vermont		1 Stat 197, Ch. 12	3/2/1791 *
Kentucky		Art. I Sec. 8 Cls. 17	1 Stat. 73, Ch. 20 9/24/1789
Tennessee		1 Stat 496, Ch. 2	1/31/1797 *
Ohio	2 Stat 173, Ch. 40	4/30/1802 2 Stat 201, Ch. 7	2/19/1803 *
Louisiana	2 Stat 641, Ch. 21	2/20/1811 2 Stat 701, Ch. 50	4/8/1812 *
Indiana	3 Stat 289, Ch. 57	4/19/1816 3 Stat 390, Ch. 100	3/3/1817 *
Mississippi	3 Stat 348, Ch. 23	3/1/1817 3 Stat 413, Ch. 29	4/3/1818 *
Illinois	3 Stat. 428, Ch. 67	4/18/1818 3 Stat 502, Ch. 70	3/3/1819 *
Alabama	3 Stat. 489, Ch. 47	3/2/1819 3 Stat. 564, Ch. 47	4/21/1820 *
Maine		Art. I Sec. 8 Cls. 17	1 Stat. 73, Ch. 20 9/24/1789
Missouri	3 Stat. 545, Ch. 22	3/6/1820 3 Stat. 653, Ch. 12	3/16/1822 *
Arkansas		5 Stat. 50, Ch. 100	6/15/1836 *
Michigan		5 Stat. 61, ch 234	7/1/1836 *
Florida		5 Stat. 788, Ch. 75	3/3/1845 *
Texas	5 Stat. 797, Res. 8	3/1/1845 9 Stat. 1, Ch. 1	12/29/1845 *
Iowa		5 Stat 789, Ch. 76	3/3/1845 *
Wisconsin	9 Stat. 56, Ch. 89	8/6/1846 9 Stat. 56, Ch. 89	8/6/1846 *
California		cannot find	cannot find
Minnesota	11 Stat. 166, Ch. 60	2/26/1857 11 Stat. 285, Ch. 31	5/11/1858 *
Oregon		11 Stat. 437, Ch. 85	3/3/1859 *
Kansas		12 Stat. 126, Ch. 20	1/29/1861 *
West Virginia		Art. I Sec. 8 Cls. 17	13 Stat. 124, Ch 120 6/11/1864
Nevada	13 Stat. 30, Ch. 36	3/21/1864 13 Stat. 30, Ch. 36	3/21/1864 13 Stat. 440, Ch. 64 2/27/1865
Nebraska	13 Stat 47, Ch. 59	4/19/1864 13 Stat. 47, Ch. 59	4/19/1864 *
Colorado	18 Stat. 474, Ch. 139	3/3/1875 19 Stat. 61, Ch. 147	6/26/1876 *
North Dakota	25 Stat 676, Ch. 180	2/22/1889 Cannot find	25 Stat. 676, Ch. 180 2/22/1889
South Dakota	25 Stat 676, Ch. 180	2/22/1889 Cannot find	25 Stat. 676, Ch. 180 2/22/1889
Montana	25 Stat 676, Ch. 180	2/22/1889 Cannot find	25 Stat. 676, Ch. 180 2/22/1889
Washington	25 Stat 676, Ch. 180	2/22/1889 Cannot find	25 Stat. 676, Ch. 180 2/22/1889
Idaho		26 Stat. 215, Ch. 656	7/3/1890 *
Wyoming		26 Stat. 222, ch 664	7/10/1890 *
Utah	28 Stat. 107, Ch. 138	7/16/1894 28 Stat. 107, Ch 138	7/16/1894 *
Oklahoma	34 Stat. 267, Ch 3335	6/16/1906 34 Stat. 267, ch 3335	6/16/1906 *
New Mexico	36 Stat. 557, Ch. 310, Sec. 1	6/20/1910 36 Stat. 557, Ch. 310, Sec. 16	6/20/1910 36 Stat 557, Ch. 310, Sec. 13 6/20/1910
Arizona	36 Stat. 557, Ch. 310, Sec. 19	6/20/1910 36 Stat. 557, Ch. 310, Sec. 34	6/20/1910 36 Stat 557, Ch. 310, Sec. 31 6/20/1910
Alaska		72 Stat 339, PL 85-508	7/7/1958 *
Hawaii		73 Stat 4, PL 86-3	3/18/1959 *

Table 3 - Admission Dates for Federated States of the United States Union

Name of state Add "State of" prefix to the below listed State names	United States Union		
	date of State Admission to the United States Union	Action or Act, Resolution, and Proclamation Leading to Membership	Date of Action/Act/Res./Proc.
Delaware	Jun 21, 1788	ratify/establish the US Constitution	12/7/1787
Pennsylvania	Jun 21, 1788	ratify/establish the US Constitution	12/12/1787
New Jersey	Jun 21, 1788	ratify/establish the US Constitution	12/18/1787
Georgia	Jun 21, 1788	ratify/establish the US Constitution	1/2/1788
Connecticut	Jun 21, 1788	ratify/establish the US Constitution	1/9/1788
Massachusetts	Jun 21, 1788	ratify/establish the US Constitution	2/6/1788
Maryland	Jun 21, 1788	ratify/establish the US Constitution	4/28/1788
South Carolina	Jun 21, 1788	ratify/establish the US Constitution	5/23/1788
New Hampshire	Jun 21, 1788	ratify/establish the US Constitution	6/21/1788
Virginia	June 25, 1788	ratify the US Constitution	6/25/1788
New York	July 26, 1788	ratify the US Constitution	7/26/1788
North Carolina	Nov 21, 1789	ratify the US Constitution	11/21/1789
Rhode Island	May 29, 1790	ratify the US Constitution	5/29/1790
Vermont	Mar 4, 1791	1 Stat. 191, Ch. 7	2/18/1791
Kentucky	Jun 1, 1792	1 Stat. 189, Ch. 4	2/4/1791
Tennessee	June 1, 1796	1 Stat. 491, Ch. 47	6/1/1796
Ohio	Mar 1, 1803	67 Stat. 407, Ch. 337	8/7/1953
Louisiana	April 30, 1812	2 Stat. 701, Ch. 50	4/8/1812
Indiana	Dec 11, 1816	3 Stat. 399, Res. 1	12/11/1816
Mississippi	Dec 10, 1817	3 Stat. 472, Res. 1	12/10/1817
Illinois	Dec 3, 1818	3 Stat. 536, Res. 1	12/3/1818
Alabama	Dec 14, 1819	3 Stat. 608, Res. 1	12/14/1819
Maine	Mar 15, 1820	3 Stat. 544, Ch. 19	3/3/1820
Missouri	Aug 10, 1821	3 Stat. 797, Proc. & 3 Stat. 645, Res. 1	3/2/1821
Arkansas	Jun 15, 1836	5 Stat. 50, Ch. 100	6/15/1836
Michigan	Jan 26, 1837	5 Stat. 144, Ch. 144	1/26/1837
Florida	Mar 3, 1845	5 Stat. 742, Ch. 48	3/3/1845
Texas	Dec 29, 1845	9 Stat. 108, Res. 1	12/29/1845
Iowa	Dec 28, 1846	9 Stat. 117, Ch. 1 & 5 Stat. 742, Ch. 48	3/3/1845
Wisconsin	May 29, 1848	9 Stat. 233, Ch. 50	5/29/1846
California	Sept 9, 1850	9 Stat. 452, Ch. 50	9/9/1850
Minnesota	May 11, 1858	11 Stat. 285, Ch. 31	5/11/1858
Oregon	Feb 14, 1859	11 Stat. 383, Ch. 33	2/14/1859
Kansas	Jan 29, 1861	12 Stat. 126, Ch. 20	1/29/1861
West Virginia	Jun 20, 1863	13 Stat. 731, Proc. 3 & 12 Stat. 633, Ch. 6	12/31/1862
Nevada	Oct 31, 1864	13 Stat. 749, Proc. 22	10/31/1864
Nebraska	Mar 1, 1867	14 Stat. 820, Proc. 9 & 14 Stat. 391, Ch. 36	2/9/1867
Colorado	Aug 1, 1876	19 Stat. 665, Proc. 6	8/1/1876
North Dakota	Nov 2, 1889	26 Stat. 1548, Proc. 5 & 25 Stat. 676, Ch. 180	2/22/1889
South Dakota	Nov 2, 1889	26 Stat. 1549, Proc. 6 & 25 Stat. 676, Ch. 180	2/22/1889
Montana	Nov 8, 1889	26 Stat. 1551, Proc. 7 & 25 Stat. 676, Ch. 180	2/22/1889
Washington	Nov 11, 1889	26 Stat. 1552, Proc. 8 & 25 Stat. 676, Ch. 180	2/22/1889
Idaho	July 3, 1890	26 Stat. 215, Ch. 656	7/3/1890
Wyoming	July 10, 1890	26 Stat. 222, Ch. 664	7/10/1890
Utah	January 4, 1896	29 Stat. 876, Proc. 9 & 28 Stat. 107, Ch. 138	7/16/1894
Oklahoma	November 16, 1907	Proc. 780 & 34 Stat. 267, Ch. 3335	6/16/1906
New Mexico	January 6, 1912	Proc. 1175 & 37 Stat. 39, Res. 8	8/21/1911
Arizona	February 14, 1912	Proc. <cannot find> & 37 Stat. 39, Res. 8	8/21/1911
Alaska	January 3, 1959	Proc. 3269 & 72 Stat. 339, PL 85-508	7/7/1958
Hawaii	August 21, 1959	Proc. 3309 & 73 Stat. 4, PL 86-3	3/18/1959

Table 4 – Admission Dates for Confederate States of the United States of America Union

Name of state	United States of America Union				
		Initial Senator 1		Initial Senator 2	
State Name is Not Prefixed with "State of"	Date of State Admission to the United States of America Union	Senator name	Date Sen. Admitted	Senator name	Date Sen. Admitted
Deleware	March 1, 1781				
Pennsylvania	March 1, 1781				
New Jersey	March 1, 1781				
Georgia	March 1, 1781				
Connecticut	March 1, 1781				
Massachusetts	March 1, 1781				
Maryland	March 1, 1781				
South Carolina	March 1, 1781				
New Hampshire	March 1, 1781				
Virginia	March 1, 1781				
New York	March 1, 1781				
North Carolina	March 1, 1781				
Rhode Island	March 1, 1781				
Vermont	Oct 17, 1791	Stephen R. Bradely	3/4/1791	Moses Robinson	10/17/1791
Kentucky	Jun 18, 1792	John Brown	6/18/1792	John Edwards	6/18/1792
Tennessee	Aug 2, 1796	William Blount	8/2/1796	William Cocke	8/2/1796
Ohio	April 1, 1803	John Smith	4/1/1803	Thomas Worthington	4/1/1803
Louisiana	Sept 3, 1812	John Destrehan	9/3/1812	Allan Magruder	9/3/1812
Indiana	December 11, 1816	James Noble	12/11/1816	Waller Taylor	12/11/1816
Mississippi	December 10, 1817	Walter Leake	12/10/1817	Thomas Williams	12/10/1817
Illinois	December 3, 1818	Jesse B. Thomas	12/3/1818	Ninian Edwards	12/3/1818
Alabama	December 14, 1819	William R. King	12/14/1819	John Walker	12/14/1819
Maine	June 14, 1820	John Holmes	6/13/1820	John Chandler	6/14/1820
Missouri	Aug 10, 1821	David Barton	8/10/1821	Thomas Benton	8/10/1821
Arkansas	September 18, 1836	William S. Fulton	9/18/1836	Ambrose H. Sevier	9/18/1836
Michigan	January 26, 1837	Lucius Lyon	1/26/1837	John Norvell	1/26/1837
Florida	July 1, 1845	James D. Wescott, Jr.	7/1/1845	David Levy Yulee	7/1/1845
Texas	February 21, 1846	Samuel Houston	2/21/1846	Thomas J. Rusk	2/21/1846
Iowa	December 7, 1848	Augustus Dodge	12/7/1848	George W. Jones	12/7/1848
Wisconsin	June 8, 1848	Henry Dodge	6/8/1848	Isaac P. Walker	6/8/1848
California	September 9, 1850	John C. Fremont	9/9/1850	William M. Gwin	9/9/1850
Minnesota	May 11, 1858	Henry M. Rice	5/11/1858	James Shields	5/11/1858
Oregon	February 14, 1859	Joseph Lane	2/14/1859	Delazon Smith	2/14/1859
Kansas	April 4, 1861	James H. Lane	4/4/1861	Samuel Pomeroy	4/4/1861
West Virginia	August 4, 1863	Peter G. Van Winkle	8/4/1863	Waitman T. Willey	8/4/1863
Nevada	December 16, 1864	William M. Stewart	12/15/1864	James W. Nye	12/16/1864
Nebraska	March 1, 1867	John M. Thayer	3/1/1867	Thomas Tipton	3/1/1867
Colorado	November 15, 1876	Henry M. Teller	11/15/1876	Jerome B. Chaffee	11/15/1876
North Dakota	November 25, 1889	Gilbert A. Pierce	11/21/1889	Lyman R. Casey	11/25/1889
South Dakota	November 2, 1889	Gideon C. Moody	11/2/1889	Richard F. Pettigrew	11/2/1889
Montana	January 2, 1890	Wilbur F. Sanders	1/1/1890	Thomas C. Power	1/2/1890
Washington	November 20, 1889	John B. Allen	11/20/1889	Watson C. Squire	11/20/1889
Idaho	December 18, 1890	William J. McConnell	12/18/1890	George L. Shoup	12/18/1890
Wyoming	November 18, 1890	Joseph M. Carey	11/15/1890	Francis E. Warren	11/18/1890
Utah	January 22, 1896	Arthur Brown	1/22/1896	Frank J. Cannon	1/22/1896
Oklahoma	December 11, 1907	Thomas P. Gore	12/11/1907	Robert L. Owen	12/11/1907
New Mexico	March 27, 1912	Thomas B. Catron	3/27/1912	Albert B. Fall	3/27/1912
Arizona	March 27, 1912	Henry F. Ashurst	3/27/1912	Marcus A. Smith	3/27/1912
Alaska	January 3, 1959	Edward L. Bartlett	1/3/1959	Ernest Gruening	1/3/1959
Hawaii	August 21, 1959	Oren E. Long	8/21/1959	Hiram L. Fong	8/21/1959

### **12.6.3.2    Art. IV:3:2 – Territorial Rules & Regulations**

**Constitution of September 17, 1787 – Article IV Section 3 Clause 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.”*

Article IV Section 3 Clause 2 of the Constitution of September 17, 1787 reserves the exclusive right to the Confederation Congress to dispose of property of the United States of America. The Confederation Congress had reserved to itself, on several occasions, the exclusive right to dispose the territory of the United States of America, beginning with the October 10, 1780 Resolution of the Confederation Congress and again in the Northwest Ordinance of July 13, 1787. This portion of Article IV Section 3 Clause 2 of the Constitution of September 17, 1787 confirms the power of the Confederation Congress to dispose of the Territory belonging to the United States and proves that the word “Congress,” as used in this clause, is a reference to the Confederation Congress, which is also known today as the “Senate” under “this Constitution.”

Article IV Section 3 Clause 2 is also a grant of new powers to make all rules and regulations respecting the territory or other property belonging to the United States. This new expanded power is beyond the power previously claimed by the Confederation Congress to dispose the territory owned by the United States of America. This new power is granted to the Confederation Congress in this Article but then is vested in the Congress of the United States under Article I Section 1. The *“Territory and other Property belonging to the United States”* would include the unincorporated territories of the United State (U.S. Virgin Island, Puerto Rico, Guam, Northern Marina Island, and America Samoa) and all federal franchises, both of which were not included in the grant of power to exercise exclusive legislation under Article I Section 8 Clause 17. Of course, *“the territory and other property belong to the United States”* also includes the District of Columbia and the federated States of the United States Union, the states which are comprise exclusively of territory owned by the United States of America. The *“Territory and other Property belonging to the United States”* describes the complete territorial jurisdiction of the United States of America.

Article IV Section 3 Clause 2 describes the only jurisdiction that might permit a government to exercise power over a person like you, provided you are a citizen of the United States or an inhabitant of its territory. From the United States Supreme Court decision in *Crop Insurance Corporation v. Merrill*, 332 U.S. 380 (1947), proof of authority is required from any persons claiming government authority in asserting government power in dealing with another person. In every situation where there is a claim of government authority, that authority will be limited to the territory owned by or ceded to the United States of America, territory which is described in Article IV Section 3 Clause 2 of the Constitution of September 17, 1787.

### **12.6.4    Article IV Section 4 – Obligation of the Confederacy Government**

**Constitution of September 17, 1787 – Article IV Section 4:** *“The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them*



*against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.”*

Article IV Section 4 obligated the United States of America government in three ways, relative to the federated States.

#### **12.6.4.1 Federated States Guaranteed a Republican Form of Government**

The obligation of the United States of America government to “*guarantee to every State in this Union a Republican Form of Government*” is actually a diplomatic way of commanding a republican form of government for the federated States of the United States Union. Under the March 1, 1784 cession of the Northwest Territory to the United States of America by Virginia, the United States of America government became obligated to lay-out and form the ceded territory into distinct republican States. Also, as a condition for admission under Article 5 of the Northwest Ordinance of July 13, 1787, the territorial States were required to form for themselves a State Constitution and government, republican in form. Article IV Section 4 of the Constitution of September 17, 1787 repeats the requirement for the federated States of the United States Union to have a republican form of government as a condition for admission. As a republic form of government, the citizens of a federated State are entitled to vote for the State government officials.

The confederated States retained all their sovereignty and independence which were not explicitly delegated to the United States of America under the Articles of Confederation. Under neither the Articles of Confederation nor the Constitution of September 17, 1787 did the State governments bind themselves to be republican in form relative to their confederate State. Though the State governments started out being republican in form relative to the confederated States, since ratification of the 14<sup>th</sup> Amendment, the State Constitutions were changed to require the electors of the State government officials to be citizens of the United States. Citizens of a confederated State could no longer vote for the State government officials of their State. Hence, relative to the confederated States, the several State governments ceased to be republican in form. With no representation in the State legislature, the citizens of a confederated State are not able to give their consent to be governed. Therefore, according to the Declaration of Independence, citizens of a confederated State are no longer subject to the laws of their State, but only to the English common-law.

#### **12.6.4.2 State Governments Protected Against Invasion**

Prior to the ratification of the Constitution of September 17, 1787, the collective several State governments, represented by the United States of America government, was already obligated to protect any of the several State governments against invasion under Article III of the Articles of Confederate. Article IV Clause 4 of the Constitution of September 17, 1787 assured those same State governments that they would continue to have the same protection against invasion as they had prior to the ratification of the Constitution of September 17, 1787.

#### **12.6.4.3 State Governments Protected Against Domestic Violence**

Under Article IV Clause 4, the collective several State governments, represented by the United States of America government, placed a new obligation upon themselves to protect any of the several State

governments against domestic violence, upon application of the Legislature of the State. The delegates to the Constitutional Conventions obviously realized that the probability of domestic violence and rebellion by Americans would exist if Americans ever figured how the Constitution of September 17, 1787 deceived them into giving up their rights. This clause was added to induce the State governments into ratifying the Constitution of September 17, 1787, by ensuring the State governments minimal downside consequences for doing so.

## **12.7 Article V – Procedure to Amend “this Constitution”**

**Constitution of September 17, 1787 – Article V:** *“The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.”*

Article 5 of the Constitution of September 17, 1787 describes the process whereby the Constitution may be altered. There are three steps to the process:

- 1) Determining that changes should be considered; propose the desired changes;
- 2) Put the proposed changes up for ratification by the States.
- 3) If the proposed changes are ratified, then the Constitution is altered as described in the proposed changes.

There are two different paths by which the amendment process may produce proposed amendments to be ratified:

- 1) **Proposal by the Senate.** This path for amending the Constitution is initiated when, by a two-thirds vote of both Houses of Congress, it is deemed that an amendment is necessary. The Senate will then propose the amendments to achieve the desired results.
- 2) **Proposal by a National Convention.** This path for amending the Constitution is initiated when, on application by two-thirds of the State legislatures, the Senate calls a national convention of the States to adopt a set of proposed amendments to be ratified.

After a set of proposed amendments are produced for ratification, the Senate chooses one of two different methods by which the States will ratify the proposed amendments: ratify by State legislatures, or ratify by State ratifying conventions. If the proposed amendments are ratified by three-fourths of the several States, the Constitution is amended accordingly.

Article V prohibits any amendments that would deprive a State of its equal suffrage in the Senate, without the consent of the State.

## **12.8 Article VI – Debt; Supreme Law of the Land; the Binding Oath Of Office**

### **12.8.1 Article VI Clause 1 – Debts Contracted Prior to Adopting “this Constitution”**

**Constitution of September 17, 1787 – Article VI Clause 1:** *“All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.”*

Under Article VI Clause 1, all debts contracted and engagement entered into, before the adoption of this Constitution, shall be as valid against the United States of America government under this Constitution, as under the Articles of Confederation. Article VI Clause 1 gives notice that the constitutional Officers are required to adopt “this Constitution,” the Constitution of September 17, 1787.

### **12.8.2 Article VI Clause 2 - The Supreme Law of the Land (United States)**

**Constitution of September 17, 1787 – Article VI Clause 2:** *“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding.”*

Article VI Clause 2 made “this Constitution,” and the Laws of the United States of America which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authorities of the United States of America government, “*the supreme Law of the Land*”, where “the Land” is the United States Union of federated States. Each federated State consists of the collective federal land located within the exterior borders of a confederated State. The State Constitutions and the state laws made in pursuance to the State Constitutions are subservient to “this Constitution.” In cases of conflict between federal and state law, the federal law must be applied. The judges in every State are bound by “this Constitution” and the Laws of the United States of America made in pursuance thereof.

### **12.8.3 Article VI Clause 3 - The Binding Oath of Office to Adopt “this Constitution”**

**Constitution of September 17, 1787 – Article VI Clause 3:** *“The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”*

The oath of office contained in Article VI Clause 3 of the Constitution of September 17, 1787 was intended to bind the legislative, executive, and judicial officers of “this Constitution,” to a new government to administer the United States Union, the District of Columbia and the U.S. territories. Article VI Clause 3 requires the legislative officers, the executive officers and the judges of both the federal government and of the governments of the several ratifying States to be bound by an oath or affirmation “to support this Constitution,” the Constitution of September 17, 1787.

A formal adoption of the Constitution of September 17, 1787 by its constitutional Officers is required by Article II Section 1 Clause 5 and by Article VI Clause 1. Black's Law Dictionary 4th Ed. defines "adopt" as, "[T]o accept, consent to, and put into effective operation; as in the case of a constitution, constitutional amendment, ordinance, or by-law." Adoption requires support and the support of any written document has, since 1677, the date of the Statute of Frauds and Perjuries, requires the subscription of the persons to be bound. Adoption of "this Constitution," thus, requires the constitutional Officers to take and subscribe the Article VI Clause 3 oath "to support this Constitution." The adoption process for a new government under the authority of "this Constitution," the Constitution of September 17, 1787, is prescribed in Article VI Clause 3. "This Constitution," the Constitution of September 17, 1787, is adopted when the officers mention in Article VI Clause 3 take a written oath or affirmation "to support this Constitution," without any religious test attached to the oath or affirmation.

What would it take for all those Officers mentioned in Article VI Clause 3 to "be bound by Oath or Affirmation, to support this Constitution?" Each of them would have to attach to a copy of the Constitution of September 17, 1787 a piece of paper with the words: "I swear or affirm to support this Constitution" and subscribe their signature. Adoption of "this Constitution" required, at a minimum, the officers of the legislative and executive branches of the government to take the Article VI Clause 3 oath to establish a constitutional limited government without a judicial branch. But, the judicial officers would also be required to take the Article VI Clause 3 oath when that branch of government was established.

Upon the taking and subscribing the Article VI Clause 3 oath by all the Officers mentioned in Article VI Clause 3, a new constitutional limited government, under the authority of the Constitution of September 17, 1787, would be established. Taking and being bound by oath or affirmation by subscription "to support this Constitution" would mean accepting the Constitution of September 17, 1787 as a revision to the Articles of Confederation of November 15, 1777 and accepting that the power to tax and regulate people is limited to the territory owned by or ceded to the United States of America. Adoption of the Constitution is very important for freedom. Without adoption, the Officers of government can do just about anything they want. The Article VI Clause 3 subscribed oath of office is the mechanism by which the government officials become bound to the written rules embraced within "this Constitution."

## **12.9 Article VII – Establishment of "this Constitution" Between the States**

**Constitution of September 17, 1787 – Article VII:** *"The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same."*

Article VII of the Constitution of September 17, 1787 makes the ratification by the convention of nine States a sufficient condition to establish "this Constitution" between the States so ratifying the same. A ratified Constitution forms a binding contract between the State governments of the ratifying States.

Upon ratification, the United States corporate structure was established that will become the Government of the United State upon the adoption of the Constitution of September 17, 1787. Ratification does not bind the Constitutional officers to follow the Constitution. After ratification, the Constitution would have to be adopted by the constitutional officers in order to bind the officers to obey the Constitution. The adoption process is described under Article VI Clause 3.

### **12.9.1 State Governments Bound by the Ratified Constitution**

The delegates of the Conventions of States which ratified the Constitution of September 17, 1787 signed the ratification as representatives of their State governments. None of these signatories were representative of the State inhabitants, especially the “free inhabitants.” Therefore, the delegates of the Conventions of States which ratified the Constitution could bind no persons other than their principals, the State governments. The State governments of the ratifying States became bound to all the terms contained in the Constitution of September 17, 1787, including the obligation to grant proprietary power over territory located within their exterior borders that was to be purchased by the consent of the State’s legislatures.

### **12.9.2 Ratifying States Remained Confederated States**

Article VII of the Constitution of September 17, 1787 defines the establishment of the Constitution as the ratification by the Conventions of nine States. But Article XIII of the Articles of Confederation indicates that it would take all 13 States to alter/repeal the Articles of Confederation. The above two mentioned articles prove that the establishment of the Constitution of September 17, 1787 did not repeal/replace the Articles of Confederation. It would take all 13 States to repeal/replace the Articles of Confederation. Yet, the Constitution of September 17, 1787 was established with the ratification of just nine States. Since the Articles of Confederation survives the establishment of “this Constitution,” the United State of America Union of confederated States continues to exist to this day. All territory located within the exterior borders of a confederated State which is not owned by the United States of America continues to have the English common-law as the system of law and continues to remain outside of the concurrent territorial jurisdiction shared between the United States of America and the State government.

*Articles of Confederation – Article XIII: “Every State shall abide by the determinations of the united States in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every State, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united States, and be afterwards confirmed by the legislatures of every State.”*

## **13 The Constitution of September 17, 1787 Was Designed for Failure**

The delegates to the Constitutional Convention designed the Constitution so that it would be impossible to establish the Government of the United States with officers bound to obey the Constitution. They were motivated to design the Constitution for failure to so that they would not have to tell the truth about the limited territorial jurisdiction of the United States of America government.

### **13.1 Requirements to Establish the Government Of the United States**

The successful implementation of the written Constitution of September 17, 1787 to create the Government of the United States with officers bound to obey the Constitution involves two steps:

- 1) Ratification of the Constitution of September 17 1787 by nine States

- 2) Adoption of the Constitution of September 17, 1787 by all the federal and State Officers mentioned in Article VI Clause 3 of the Constitution.

### **13.2 Adoption of the Constitution Impossible Prior to June 21, 1802**

Adoption is the final step in establishing a constitutional limited government under the Constitution of September 17, 1787. But only those governmental officials who met their requisites for office would be able to take the Article VI Clause 3 oath to adopt this Constitution. The framers of the Constitution exploited the need for qualified officials to adopt this Constitution as a means to prevent its adoption. Qualifications for the Office of President, the Senators, and Representatives were set so that nobody could possibly qualify for those offices until after June 21, 1802, July 13 1796, July 13, and 1794, respectively.

#### **13.2.1 Congress of the United States Start Date Set to July 13, 1796**

The citizenship requisite of a Representative is to be a 7-year “citizen of the United States,” and of a Senate is to be a 9-year “citizen of the United States.” The Congress of the United States start date is earliest date on which it was possible for both Representatives and Senators to meet the citizenship requisites of Office, which is dependent on the earliest date on which it was possible to be a “citizen of the United States.”

Upon ratification of the Constitution of September 17, 1787, the meaning of the phrase “citizen of the United States” was changed to meant a citizen of the United States of America government, a citizenry which owes allegiance to the United States of America, is domiciled on territory owned by or ceded to the United States of America and therefore, is subject to the federal laws of the United States of America. Using this new meaning for “citizens of the United States,” the most likely first “citizens of the United States” did not exist until the July 13, 1787, upon the ordainment of the Northwest Ordinance. Under the Northwest Ordinance, those citizens are referred to as “citizens of any other States that may be admitted into the Confederacy,” but have the characteristic as the new meaning of “citizens of the United States.”

If we use July 13, 1787 as the earliest date for when it was possible to be a citizen of the United States, then the earliest date on which a Representative and Senator could possibly meet the citizenship requisites of Office would be July 13, 1794 and July 13, 1796, respectively.

#### **13.2.2 Office of President Start Date Set to June 21, 1802**

The resident requisite of Office of President is “*fourteen-year resident within the United States.*” The Office of President start date is earliest date on which it would be possible to meet the resident requisites for Office. The Office of President start date is dependent of the earliest date on which it would be possible to be a resident of the “United States” Union. The “United States” Union was created on June 21, 1788, upon the establishment of the Constitution of September 17, 1787 by the ratification by nine States. Therefore, earliest date it would be possible to be a 14-year resident in this “United States” would be June 21, 1802.

### **13.3 The Aborted Government of the United States**

After the Constitutional Convention submitted the Constitution of September 17, 1787 to the Confederation Congress, several additional tasks would have to be completed before our current form of



government would be established. However, according to plan, certain steps were taken to prevent the formation of constitutional limited government under the Constitution of September 17, 1787. Instead of a government by law, the people acquired a government by men. With an un-adopted Constitution, Washington and Congress would be free to create a government based on a Roman military model.

### **13.3.1 Ratification by Nine States Completed on June 21 1788**

Pursuant to Article VII of “this Constitution”, *“The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.”* To start the ratification process, the written Constitution of September 17, 1787 was distributed to the original States and the Conventions of States were organized. Once the Conventions of States were organized, the State governments, through their delegates, were able to ratify the Constitution. Delaware became the first State to ratify the Constitution on December 7, 1787; followed by Pennsylvania on December 12, 1787; New Jersey on December 18, 1787; Georgia on January 2, 1788; Connecticut on January 9, 1788; Massachusetts on February 6, 1788; Maryland on April 28, 1788; and South Carolina on May 23, 1788. Then finally, on June 21, 1788, New Hampshire became the ninth State to ratify the Constitution of September 17, 1787, which established that Constitution among those first nine States to ratify it.

Ratification by the State governments did not confer any legislative power over the “free inhabitants” because the State governments had no such legislative power to confer. Also, Ratification by the State governments did not bind the people of the States as the written Constitution cannot be a contract with the people, as the inhabitants of the ratifying States. The free inhabitants of the several States remained apolitical and a free people following the ratification of the Constitution of September 17, 1787.

#### **13.3.1.1 A Date is Set for Commencing Proceedings Under this Constitution**

On June 25, 1788, Virginia became the tenth State to ratify the Constitution and on July 26, 1788, New York became the eleventh State to ratify the Constitution. Then, on September 13, 1788, by resolution, pursuant to Article II Section 1 Clause 4, the Confederation Congress set January 7, 1789 as the date *“for appointing Electors in the several states, which before the said day shall have ratified the said constitution;”* set February 4, 1789 as the date *“for the electors to assemble in their respective states and vote for a president;”* and set March 4, 1789 as the date *“for commencing proceedings under the said constitution.”* Prior to March 4, 1789, October 10, 1788 was the last day that the Confederation Congress convened with a quorum.

The March 4, 1789 date set for commencing proceedings under the “this Constitution” is more than 5 years before anybody could possibly meet the citizenship requisite for Representatives, more than 7 years before anybody could possibly meet the citizenship requisite for Senators, and more 13 years before anybody could possibly meet the resident requisite for the Office of President. Setting the date for commencing proceedings under the “this Constitution” to March 4, 1789 was the only step needed to abort the formation of a constitutional limited government under “this Constitution.”

#### **13.3.1.2 The First Congress Prevented from Adopting this Constitution**

The number of Presidential Electors that each State is entitled to is set in Article II Section 1 Clause 2 to the whole number of Senators and Representatives that the States may be entitled to, and the initial number of Representatives that each State were entitled to was set in Article I Section 2 Clause 3. Per Article I Section 4 Clause 1, the States set the dates for choosing their two Senators and for the election of their Representatives to the Congressional House of Representatives, so that members of the Senate, together with the members of the House of Representatives could be present on March 4, 1789 to commence proceeding under the Constitution of September 17, 1787. The First Congress convened on March 4, 1789, but not under the authority of the Constitution of September 17, 1787. Under “this Constitution,” every Representative and Senator must adopt “this Constitution” by taking and subscribing the Article VI Clause 3 oath “to support this Constitution.” But none of the Senators or Representatives was qualified to take and subscribe their oath of office. Therefore, none of the Senators or Representatives which convened on March 4, 1789 adopted the Constitution and as a result, their offices under the authority of the Constitution of September 17, 1787 were left vacant.

### **13.3.1.3 The First President Elect Prevented from Adopting this Constitution**

The Presidential Electors met on February 4, 1789 and voted for a President of the United States of America. Then, on April 6, 1789, per Article II Section 1 Clause 3, the Vote Certificates were opened and the votes counted in the presence of the Senate and House of Representatives. The resulting vote count immediately made George Washington the President of the United States of America and John Adams the Vice President, both officers under the authority of the Articles of Confederation.

On April 6, 1789, after it was announced that George Washington was the President of the United States of America, Congress set April 30, 1789 for the Presidential Inauguration date. When the April 30, 1789 inauguration event arrived, George Washington could not meet the 14-years resident requisite for the Office of President. George Washington did the only thing a politician can do . . . he stole an Office and hoped no one would notice. Instead of taking and subscribing the Article VI Clause 3 oath “to support this Constitution” as the appointed “President,” George Washington took the oral oath for the President of the United States: “I, George Washington, do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.” “So help me God.” The phrase “So help me God” does not appear in the Article II Section 1 Clause 8 oath of office for the President of the United States. Washington tacked on that phrase to his oath, which phrase is considered to be a religious test that is prohibited under Article VI Clause 3 of the Constitution of September 17, 1787.

Washington took an oath that would require him to “preserve, protect and defend” the property of the United States of America without regard to the “unalienable Rights” of the people. Washington had an obligation to tell the truth about the Office that he was taking and, of course, he refused to tell the truth. Instead, Washington pretended to be bound to written law that would limit governmental power to the protection of the people’s unalienable rights, the sole reason for instituting governments, as declared in the Declaration of Independence. Amazingly, nobody noticed that George Washington had switched the oath of office. The people incorrectly thought George Washington had taken the proper oath to bind him “to support this Constitution” when in-fact, he, nor anybody else, has ever adopted the Constitution of September 17, 1787.

George Washington set a precedent that would be followed by every President Elect since Washington. The “*Office of President*” is the executive office under the Constitution of September 17, 1787 that is required to be filled in order to establish constitutional limited government; yet, that office that has never been filled.

#### **13.3.1.4    The First Act of the First Congress – Create a New Oath of Office.**

The oath taken by the President of the United States became the model oath for all federal officers and State officers identified in Article VI Clause 3 of the Constitution of September 17, 1787. When the First Congress convened on March 4, 1789 in New York City none of the Senators and Representatives qualified to take the Article VI Clause 3 oath. So, after George Washington took his oral oath to “*preserve, protect and defend*” the unwritten “*Constitution of the United States*” on April 30, 1789, the first order of business of Congress was the preparation of a legislative oath for all other federal government officers. The new legislative oath was enacted into law on June 1, 1789 and is currently contained in Title 5 U.S.C. §3331.

Similar to the oral oath of the President of the United States, the legislative oath for officers of the federal government is “*to support and defend the Constitution of the United States,*” the territorial composition of the United States, which consists of the territory owned by the United States of America. Like the oral oath of the President of the United States, the legislative oath must be taken without a provision that it is binding. Article VI Clause 3 of the Constitution of September 17, 1787 requires that the legislative, executive, and judicial officers of “this Constitution,” be bound “*to support this Constitution*”, the Constitution of September 17, 1787. The legislative oath contained in Title 5 U.S.C. §3331 does not fulfill the requirements of the Article VI Clause 3. Furthermore, the legislative oath of Title 5 U.S.C. §3331 contains the phrase: “So help me God,” which is a religious test that is prohibited under the Article VI Clause 3. Like the oral oath of the President of the United States, the Title 5 U.S.C. §3331 oath is nothing more than a promise to do a good job in supporting and defending the assets of the Confederacy; the oath does not bind the oath taker to anything. An employee takes an oath to do the best job he is capable of doing, but an officer is bound by an oath to perform the duties of his Office. Anyone who is appointed to an office by the President of the United States of America, with the Advice and Consent of the Senate, who takes the Title 5 U.S.C. §3331 oath becomes a regular employee of the Senate rather than a government officer with discretionary governmental power; they perform the functions of a public office and come within the definition of a “trade or business.” Taking the Title 5 U.S.C. §3331 oath does not adopt “this Constitution.” There is no proof of there ever being an adoption in accordance with Article VI Clause 3.

Title 4 U.S.C. § 101 contains the legislative oath required of State legislatures, and every executive and judicial officers of the States. As with the oath of office for the officers of the United States of America Government contained in Title 5 U.S.C. §3331, the oath of office for State officers contained in Title 4 U.S.C. §101 does not adopt “this Constitution.”

**5 U.S.C. §3331:** *‘An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: “I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this*

*obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.” This section does not affect other oaths required by law.’*

**Title 4 U.S.C. § 101:** *‘Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: “I, A B, do solemnly swear that I will support the Constitution of the United States.”’*

#### **13.3.1.5 Ratification by Thirteen States Completed on May 29 1790**

Full ratification of the Constitution of September 17, 1787 by all 13 States of the perpetual Union was completed on May 29, 1790. The State of North Carolina ratified on November 21, 1789, followed by the State of Rhode Island on May 29, 1790. Though the Constitution of September 17, 1787 was now fully ratified, it still was not adopted. Upon full ratification, the Articles of Confederation were altered per Article XIII as following:

- 1) The newly created civil executive office of President of the United States of America, under the authority of the Articles of Confederation, was made permanent.
- 2) The newly created civil office of the Vice President of the United States of America, under the authority of the Articles of Confederation, was made permanent.
- 3) The newly created two-house “Congress of the United States,” under the authority of the Articles of Confederation, was made permanent.

#### **13.4 Effects of the Failure to Adopt the Constitution of September 17, 1787**

Though the Constitution of September 17, 1787 was fully ratified by all 13 original States, the Constitution was never adopted by the officers as required by the Constitution. The delegates of the Constitution Convention planned the failed adoption because that failure created a license to not tell the truth about the federal government’s limited territorial jurisdiction. The failure to adopt the Constitution of September 17, 1787 had the following effects:

- 1) The United States of America government would continue to operate under the Articles of Confederation, but secretly.
- 2) The United States corporation structure was substituted for the Government of the United States and would begin to administer the United States Union and the other territory owned by or ceded to the United States of America.
- 3) Multiple meanings for the phrase “Constitution of the United States” came into being.
- 4) The President of the United States of America and the President of the United States were statutorily combined into one person.
- 5) The United States of America government would morph from the institution that was created to protect the unalienable right of Americans to an institution that would destroy their unalienable rights. Americans once again found themselves subject to law that was foreign to them. Systemic abuse and lost freedoms were the ultimate results. Three strategic approaches have been utilized by the United States of America to systemically abuse Americans:

- a) **Propaganda and Deception** – Propaganda and deception are used to perpetuate the ignorance of Americans regarding their System of governments and their citizenship. Part 1 of this book was written to help eliminate this confusion.
- b) **Franchise Agreements** - The abusive use of private contracts between the federal government and private Americans, known as franchise agreements. A franchise agreements confers a public right to the private consenting party, making the contract binding. Through the use of franchise agreements, the United States of America acquires “extraterritorial jurisdiction” over any non-citizen national of the United States of America who consents to the agreement. See the section on “Franchises” for details.
- c) **Federal Administrative Court System** - The courts of the federal court system are not established as Judicial Courts which are established and ordained under Article III. Rather, the federal courts are established as administrative Courts which were legislatively created under the authority of Article IV Section 3 Clause 2 to make rules concerning the territories and other properties owned by the United States of America. The federal administrative Courts are used for the enforcement of franchise agreements and are incapable of dispensing justice. See the section on “Federal Court System” for details.

#### **13.4.1 U.S.A. Government Secretly Operating Under the Articles of Confederation**

Starting on March 4, 1789, the date that the First Congress convened, the United States of America government would begin operating secretly under the Articles of Confederation. With all constitutional revisions to the Articles of Confederation, the United States of America government consisted of the following main committees/officers/employees:

- 1) The original Confederation Congress, operating under its new name, the “Senate”.
- 2) The newly created offices of President and Vice President of the United States of America.
- 3) A newly created two-house “Congress of the United States,” which is created under the authority of the Articles of Confederation and officially named the “Senate and House of Representatives of the United States of America in Congress assembled.”
- 4) Two key employee positions with the Senate, masquerading as a branch of the fictitious Government of the United States.

The Senate, President and Vice President of the United States of America have already been discussed hereinbefore and need not further discussion in this section. But there are a few note-worthy points that will be made about the “Congress of the United States.” Also, the President of the United States and the Chief Justice, as employees of the Senate, will also be further discussed in this section.

##### **13.4.1.1 The Two-House “Congress of the United States”**

None of the Representatives or Senators of the First Congress of the United States, or of any of the succeeding Congresses, have ever adopt “this Constitution” by taking and subscribing the Article VI Clause 3 oath “to support this Constitution.” Therefore, the First Congress, and all the others which have followed it, have never convened under the authority of the Constitution of September 17, 1787. The Articles of Confederation became the only other Organic Law of the United States of America by which they could function as a governmental body. The “Senate,” is just a new name for the

Confederation Congress. The members of the Senate, as delegates to the Confederation Congress, were not required to take an oath of office to hold their Office under the authority of the Articles of Confederation.

On the failure to adopt of the Constitution of September 17, 1787, the Confederation Congress took the following steps to form a two-house Congress of the United States under the authority of the Articles of Confederation:

- 1) The Confederation Congress exercised its power under Article IX Section 5 of the Articles of Confederation to appoint the elected members of the “House of Representatives” to the “*House of Representatives of the United States of America*,” a committee under the authority of the Articles of Confederation. The members of the House of Representatives were not required to take an oath of office to hold their Office under the authority of the Articles of Confederation.
- 2) The Confederation Congress again exercised its power under Article IX Section 5 of the Articles of Confederation to combine the “House of Representatives of the United States of America” with the Senate of the United States of America into a two-house Congress, officially named the “Senate and House of Representatives of the United States of America in Congress assembled.” The name of that governmental body is found in the enactment clause which first appeared in statute I, Chapter 1, on June 1, 1789 in “An Act to regulate the Time and Manner of administering certain Oaths.” Section 101 of Title 1 United States Code reads: “*The enacting clause of all Acts of Congress shall be in the following form: ‘Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.’*” 1 U.S.C. § 101 proves that the two house “Congress of the United States” described in the Constitution of September 17, 1787 has always convened under the authority of the Articles of Confederation and is officially named “Senate and House of Representatives of the United States of America in Congress assembled.”

The difference between the Senators in the enacting clause and the Senators in Article I Section 3 Clause 1 of the Constitution of September 17, 1787 is the kind of oath they take and that oath makes the difference between freedom and servitude. The Senators in Article I Section 3 Clause 1 of the Constitution of September 17, 1787 would have been bound by a written oath “to support this Constitution,” meaning the written Constitution of September 17, 1787. The Senate in Section 101 of Title 1 is not bound by a written oath “to support this Constitution.” Instead, the Senate in Section 101 of Title 1 only promises to do the best job they can in protecting the Constitution of the United States, which is comprised of the assets owned by or ceded to the United States of America. The above applies equally to the Representatives found in the enacting clause and the Representatives found in Article I Section 2 Clause 1 of the Constitution of September 17, 1787.

#### **13.4.1.2 Key Positions of Employment with the Senate**

There are two important positions of employment with the Senate described in the Constitution of September 17, 1787. Those two positions, masquerading as the head of a branch in the fictitious Government of the United States, are necessary so that it does not become blatantly clear that the Constitution has not been adopted.

##### **13.4.1.2.1 President of the United States Made to Look Executive-Like**



To conceal the lack of an executive branch in the fictitious Government of the United States, efforts were expended to give the illusion that the President of the United States was the executive branch of that “government.” The delegates to the Constitutional Convention never intended for the Constitution of September 17, 1787 to be adopted therefore, while drafting the Constitution, they began to make the legislative office of President of the United States appear to be executive-like to help cover the planned failure to adopt the Constitution and the resultant vacant Office of President.

The legislative Office of “President of the United States” has a title similar to the executive Office of “President of the United States of America” under the Articles of Confederation and the executive “Office of President” under the Constitution of September 17, 1787, confusing most Americans into incorrectly thinking that the “President of the United States,” is one and the same as the “President of the United States of America,” or the “Office of President.”

Congress would legislatively expand the duties of the Office of President of the United States to include duties very similar to the ones that were reserved in “this Constitution” for the President of the United States of America/President. The expansion of the duties of the President of the United States through legislation confirms the Office’s legislative origin. The POTUSA/President is the Commander in Chief of the Army and Navy of the United States of America pursuant to Article II Section 2 while the POTUS is statutorily made Commander in Chief of the United States militias.

In Article II Section 2, the POTUSA/President is granted the power to grant reprieves and Pardons for offenses against the United States of America, which power requires that the POTUSA subscribe the Article VI Clause 3 oath before exercising. Since this Constitution has never been adopted, the POTUS is made the statutory officer who has been granted pardoning power by the Congress for offenses against the United States.

Also in Article II Section 2, the POTUSA/President is granted power, with the advice and consent of the Senate, to appoint Judges of the “one supreme Court” who may exercise the judicial power of the United States of America vested in that Court. But the power to appoint of Judges of the “one supreme Court” requires that the POTUSA subscribe the Article VI Clause 3 oath before exercising. Since “this Constitution” has never been adopted, the POTUS is legislatively granted to power, with the advice and consent of the Senate, appoint Justices of the Supreme Court, who are employees of the Senate just like the POTUS who appoints them.

#### **13.4.1.2.2 Chief Justice Made to Look Judicial-Like**

Clearly the delegates of the Constitutional Convention never intended for the Article III courts to be implemented. In lieu of the Article III courts, the delegates of the Constitutional Convention schemed that a non-judicial administrative territorial federal court system would be legislatively created and disguised to look like the Article III courts, consisting of one “Supreme Court” and the inferior district courts. The Chief Justice played the important role of heading up the entire non-judicial administrative territorial federal court system that was created by the Judicial Act of September 24, 1789. Almost all Americans incorrectly believe that the Chief Justice occupies the Office of Judge and exercises the Judicial power of the United States of America vested in the Article III “one supreme Court” in discovering law. The truth is that the Chief Justice is an employee of the Senate. The U.S. Supreme

Court and U.S. District Courts were created using the Article IV Section 3 Clause 2 power to make all needful rules respecting the territory and other property owned by the United States of America. More will be said about this in the Section titled “The Federal Court System.”

### **13.4.2 U.S. Corporation Substituted for the Government of the United States**

The so-called Founding Fathers were nothing more than instigators of government as business. All governments are corporations, but unlike the private commercial corporations a government is a public corporation in which the officers are bound to obey the Charter/Constitution which created the governmental corporation. Upon ratification of the Constitution of September 17, 1787, the United States corporate structure was established that will become the Government of the United State upon the adoption of the Constitution. The failure to take and subscribe the proper oath to install and implement the Constitution of September 17, 1787 prevented the creation of a constitutional limited Government of the United States. On failure to adopt the Constitution of September 17, 1787, the United States corporate structure remained a private commercial corporation. The United States Union and the other territories owned by or ceded to the United States of America are administered through the United State private commercial corporation as an instrumentality of the United States of America. As a private commercial corporation, the United States is without the power to force its will on the people.

Sections 3001 and 3002 of Title 28 of the United States Code, confirms that the United States is a private commercial corporation rather than a public corporation/government. The 1990 legislative declaration by a Congress that Chapter 176 of Title 28 of the United States Code would provide “*the exclusive civil procedures for the United States— (1) to recover a judgment on a debt; or (2) to obtain, before judgment on a claim for debt, a remedy in connection with such claim,*” and was an admission that the United States was a private corporation for all purposes. A governmental public corporation would have to operate using sworn officers executing discretionary sovereign powers. The “United States” is defined in 28 USC §3002(15)(A) as a corporation. The appearance of phrase “United States” in both the subject and predicate of the sentence defining “United States” in 28 USC §3002(15) indicates that the United States corporate is an agent/instrumentality of the United States of America government.

#### **Title 28-- Judiciary and Judicial Procedure Part VI, Chapter 176—Federal Debt Collection Procedure Subchapter A--Definitions and General Provisions**

##### **28 USC §3001**

"(a)In General.—Except as provided in subsection (b), the [1] chapter provides the exclusive civil procedures for the United States—

- (1) to recover a judgment on a debt; or
- (2) to obtain, before judgment on a claim for a debt, a remedy in connection with such claim."

##### **28 USC §3002**

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(15) “United States” means—

- (A) a Federal corporation;
- (B) an agency, department, commission, board, or other entity of the United States; or
- (C) an instrumentality of the United States.

### **13.4.3 Multiple Meanings for the Phrase “Constitution of the United States”**

Due to the failure to adopt the Constitution of September 17, 1787, the phrase “Constitution of the United States” has come to have several different meanings.

#### **13.4.3.1 The Territorial Composition of the United States Union**

The phrase “Constitution of the United States”, in the context of the oral oath of the President of the United States, cannot mean the written Constitution of September 17, 1787, because an oral oath cannot support a written Constitution. In the context of the oral oath of the President of the United States, the phrase “Constitution of the United States” means the territorial composition of the United States Union that was created on June 21, 1788, the date on which New Hampshire became the ninth State to ratify the Constitution of September 17, 1787. At that time, the territorial composition of the United States consisted of the 9 federated States of the United States Union that were erected within the exterior borders of the ratifying confederated States. The territory of the United States consists of territory that is owned by the United States of America. When government officers, both federal and State, take an oath “to defend the Constitution of the United States”, their oath is to defend the proprietary interests of the United States of America Confederacy, the territory owned by the Confederacy.

#### **13.4.3.2 Mythical Charter to Limit the Government of the United States.**

Most Americans misconstrue the “Constitution of the United States” which appears in the oral oath of the President of the United States, for the constitution that the independent States ratified, the Constitution of September 17, 1787. All officers of the United States corporation structure and all officers of the States governments take an oath to the “Constitution of the United States”. No officer has ever taken and subscribed the Article VI Clause 3 oath, binding them to obey the Constitution of September 17, 1787; therefore all government officers, both federal and state, are free to ignore the Constitution of September 17, 1787.

By misconstruing the “Constitution of the United States”, the constitution to which the government officers take their oath, for the “Constitution of September 17, 1787,” the constitution which the original confederated States ratified, Americans are deceived into incorrectly thinking that the federal government is limited by the Constitution of September 17, 1787. Neither the “Constitution of the United States” nor the ratified but un-adopted “Constitution of September 17, 1787” is a Charter for limited government. Government critics constantly scream the unconstitutionality of government action, never realizing that there is no Constitution.

Former President of the United States, George W. Bush, said it best: “The Constitution is just a piece of paper.” This is why it seems, at times, as if there is no Constitution at all. The “Government of the United States” is free to do as it wishes because the Constitution of September 17, 1787 has not been adopted. However, with the exception of not telling the truth about its limited territorial jurisdiction of the United States of America, the officers of the federal government do try to follow the Constitution of September 17, 1787 as best as they can so that it does not become blatantly obvious that the Constitution has not been adopted.

#### **13.4.3.3 Charter For a Commercial Corporation**

Initially, the “Constitution of the United States” meant the inventory of territory owned by the Confederacy. But, on April 30, 1789, when George Washington took his oral oath to the “Constitution of the United States” rather than “to support this Constitution,” the meaning of the phrase began to morph to mean the title for a to be written document that would be created legislatively. The un-adopted Constitution of September 17, 1787, which binds the ratifying State governments, provides all the legislative power needed to incorporate by reference critical parts of the Constitution of September 17, 1787 into a legislatively constructed United States Constitution. The legislatively constructed United States Constitution is the commercialized version of the ratified but un-adopted Constitution of September 17, 1787.

Everything in the Constitution of September 17, 1787 that precedes the Article II Section 1 Clause 8 oral oath of the President of the United States becomes a part of the POTUS employment contract and is the only part of the Constitution which is relevant to the President of the United States and his administration of the United States. Essentially, said part of the Constitution of September 17, 1787 was cannibalized by the Congress and the President of the United States to form a basis of the United States Constitution. The legislatively constructed United States Constitution had its debut on June 1, 1789 when a new nonbinding oath of office to the “Constitution of the United States” was presented as Statute I, Chapter I. At noon on April 30, 1789, the United States would have both a Congress and a President of the United States, but it would not have a judiciary until the Congress and the President of the United States would pass the legislation to produce it. The Judiciary Act of 1789 legislatively created the “United States Supreme Court.” From then on, the Chief Justice and Associate Justices of the legislative Supreme Court would assist the Congress and President of the United States in legislatively creating the Constitution of the United States from whole cloth.

The Chief Justice and the Associate Justices claim authority to interpret the “Constitution of the United States” that, as a written charter for limited government, does not even exist. The United States Supreme Court then takes any formal objections to this legislative construction of the Constitution of the United States and gives a “final opinion.” Chief Justice Charles Evans Hughes proclaimed the Constitution is what the Justices of the Supreme Court say it is. They make it up as they go along. The creation of a written Constitution from just the title “Constitution of the United States” has resulted in what is now called the United States Constitution. To explain the wholesale reconstruction of the Constitution of September 17, 1787, the United States Constitution is termed a Living Constitution. There is no Living Constitution.

All written law in the United States of America Confederacy, including the State Constitutions, is subordinate to the legislatively constructed United States Constitution. The United States Constitution became the administrative manual for the President of the United States in the administration of the United States.

#### **13.4.4 POTUSA And POTUS is Statutorily Combined into One Person**

As already discussed under the section concerning Article I Section 3 Clause 5, the POTUSA and POTUS are statutorily combined into one person, which would have been impossible under an adopted Constitution of September 17, 1787. In addition to being an invalid combination of offices held by one

person under an adopted Constitution, the combining of POTUSA and POTUS into one person creates a military dictatorship.

#### **13.4.4.1 POTUSA And POTUS Combined into One Person Creates a Military Dictator**

A dictator is described as a person who is both the head of a State and the head of the government including the military. All monarchs can be dictators. Adolf Hitler, Benito Mussolini, Joseph Stalin and the late President of Venezuela, Hugo Chavez were all dictators by virtue of being the heads of State and the heads of government of their respective countries.

The President of the United States of America is the head of State of the United States of America Confederacy and the Commander in Chief of the Confederacy military force while the President of the United States is head of the Government of the United States. Because every President of the United States of America has also been the President of the United States, it can be said that the President of the United States is a military dictator. But the dictatorship of the President of the United States is limited to the United States, the territory owned by or ceded to the United States of America.

Regulatory bodies like the SEC are part of the military government headed by the President of the United States. The Office of State Attorney General derives its power from the military occupation of territory conveyed to the United States of America along with its proprietary power. All the courts created by government power and legislation are specifically constructed to meet a military justice objective.

#### **13.4.4.2 States of the United States of America Union Under Martial Law?**

The Leiber Code was promulgated as General Orders No. 100 by President Lincoln on 24 April 1863. Section I of the Leiber Code, titled “Military Jurisdiction,” describes conditions that would indicate that a specific place, district, or country was under Martial Law. The first condition described in Article 1 for Martial Law in a place, district, or country is that the place, district or country is occupied by an enemy force. One could certainly consider the police force present in the confederated States enforcing the laws of the United States of America against the “non-citizen nationals of the United States” an occupying enemy of the “non-citizen nationals of the United States.”

The second condition described in Article 3 for Martial Law in a place, district, or country is that laws of the occupied place, district of country are suspended by the occupying military authority and replaced with by military rule and force. The law of the land in the confederated States is English common-law. Yet, the police forces occupying the confederated State are enforcing the written laws of the United States America against “non-citizen nationals of the United States.” So, in accordance with Section 1 of Leiber Code, a case could be made for Martial Law being in force in the confederated States.

Certainly during the infamous 1794 Whisky Rebellion, Martial Law was in force in the confederated States. At that time, the federal government was attempting to enforce the excise tax on the distillation of alcohol in the confederated States. The farmers knew they were not subject to the tax and therefore rebelled. George Washington, as President of the United States of America and Commander in Chief of the militias of the thirteen States, was able to call those State militias “into the actual Service” of the United States of America to stop the tax revolt. The use of overwhelming military force, the “shock and

awe” of the time was sufficient to impose the whisky tax and all other federal taxes beyond the United States, and into the confederated States.

Today the tax laws of the United States of America are still being enforced in the confederated States, and the federal courts, which are specifically constructed to meet a military justice objective, are used in the enforcement of those tax laws against the free inhabitants. However, before saying that the confederated States are under Martial Law, one needs to consider the following points:

- 1) Persons made liable to the United States income taxes are citizens of the United States, no matter where residing, residents of the United States, and non-residents of the United States who are involved in privileged income producing activity in the United States. Any person made liable to the income tax laws of the United States of America has a nexus to the United States.
- 2) Most Americans inhabiting the confederated States do not on the surface appear to fit the description of persons made liable to the United States income tax laws. However due to the personal actions of many Americans, most Americans unknowingly create a nexus to the United States that gives the federal government extraterritorial jurisdiction over them. The main personal acts of an otherwise “non-citizen nationals of the United States” which create a nexus to the United States are:
  - a) The disclosure of a SSN while applying for a job or during any other activity. The disclosure of a SSN when applying for a job in the private sector has the effect of making the earnings from the job associated with the SSN taxable. See the section on Franchises for details.
  - b) The application for any licenses invokes a franchise agreement in which the applicant become subject to the private contract laws contained in the franchise agreement. See the section on Franchises for details.
  - c) Registering to vote or serving on jury duty in a court of written law are both strong evidence that you have consented to be governed. Both actions require the person to certify under law that they are a citizen of the United States, and a resident of the federated State of the United States Union where they registered.
  - d) Acquiesce to the jurisdiction of a federal/State court of written law implies you are a person subject to the jurisdiction.

Most otherwise “non-citizen nationals of the United States” have created a nexus to the United States from one of the above described acts. Therefore, a fair assessment as to whether or not the confederated States of United States of America Union are under martial law would be: The degree to which the federal government enforces its income tax laws against “non-citizen nationals of the United States” who have not established a nexus to the United States is the degree to which there is Martial Law in the confederated States of the United States of America Union.

**Leiber Code – Section 1 Article1:** *“A place, district, or country occupied by an enemy stands, in consequence of the occupation, under the Martial Law of the invading or occupying army, whether any proclamation declaring Martial Law, or any public warning to the inhabitants, has been issued or not.”*

**Leiber Code – Section 1 Article 3:** *“Martial Law in a hostile country consists in the suspension, by the occupying military authority, of the criminal and civil law, and of the domestic administration and government in the occupied place or territory, and in the substitution of military rule and force*



*for the same, as well as in the dictation of general laws, as far as military necessity requires this suspension, substitution, or dictation. The commander of the forces may proclaim that the administration of all civil and penal law shall continue either wholly or in part, as in times of peace, unless otherwise ordered by the military authority.”*

## **14 Amendments to the Constitution of September 17, 1787**

The Constitution of September 17, 1787 pertains to the territory owned by or ceded to the United States of America. Likewise, all Amendments to the Constitution of September 17, 1787, including the first through the tenth known as the Bill of Rights, are limited to the territory owned by or ceded to the United States of America.

The State governments have ratified the Constitution of September 18 1787, establishing that Constitution between the ratifying States and binding those State governments to the Constitution agreement. But failure to adopt the Constitution of September 17, 1787 means no government officials are bound to obey the Constitution. As the Bill or Rights are amendments to the Constitution of September 17, 1787 and as no government officials are bound to obey the Constitution, no government officials are bound to obey the Bill of Rights. That is why no Americans have constitutional guaranteed rights.

Many Americans think that constitutional guaranteed rights are the same or better than unalienable rights. They are not. Human unalienable rights are not recognized by government law, because that law is made by and for government, which government is able to ignore the unalienable rights of the people due to the failure to adopt the Constitution of September 17, 1787. There are no unalienable rights in the United States. Unalienable rights exist only without the United States, in the confederated States. Unalienable Rights endowed by God need no other security than the recognition of their origin.

### **14.1 The 6<sup>th</sup> Amendment**

**Constitution of September 17, 1787, 6<sup>th</sup> Amendment** - *“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”*

The Sixth Amendment of the Bill of Rights ratified December 15, 1791, directly recognizes territorial jurisdiction based on a district from which jurors are to be selected. The 6<sup>th</sup> Amendment requires that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed. The 6<sup>th</sup> Amendment also require that the district be defined by law previously to the criminally committed act.

### **14.2 The 13<sup>th</sup> Amendment**

**Constitution of September 17, 1787, 13<sup>th</sup> Amendment, Section 1:** *“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”*

**Constitution of September 17, 1787, 13<sup>th</sup> Amendment, Section 2:** *“Congress shall have power to enforce this article by appropriate legislation.”*

The 13<sup>th</sup> Amendment, ratified on December 6, 1865, prohibited slavery or involuntary servitude. The prohibition of a certain activity in a particular territory by a government is possible only if that particular territory falls within the territorial jurisdiction of the government. To determine exactly where the 13<sup>th</sup> Amendment prohibits slavery, we must analyze the two different contexts for the term “United States,” as used in Section 1 of the 13<sup>th</sup> Amendment. The first context for the term “United States” is formed from the phrase *“shall exist within the United States,”* and is a geographical context. According to the U.S. Supreme Court, within the Constitution of September 17, 1787, there is only one geographical meaning for the term “United States” and that meaning is the federated States of the United States Union and excludes the District of Columbia and the U.S. Territories.<sup>57</sup> The federated States consist solely of federal land.

The second context for the term “United States” is formed by the phrase *“or any place subject to their jurisdiction.”* The pronoun “their” is plural and refers to the “United States” in a plural political context, which by itself is a reference to the several State governments. Each State government, taken individually, has its own territorial jurisdiction that is limited to the territory within its exterior borders that is owned by the United States of America. But the word “jurisdiction,” as used in the 13<sup>th</sup> Amendment, is singular, and therefore, must refer the territory jurisdiction of the collective State governments. The collective State governments are represented by the United States of America government. Furthermore, the territory jurisdiction of the United States of America government is the territory owned by or ceded to the United States of America and includes the federated States of the United States Union, the District of Columbia and the U.S. Territories.

Since the territorial scope of “United States” is a subset of *“any place subject to their jurisdiction,”* it was not necessary to include the term “United States” in the 13<sup>th</sup> Amendment. The inclusion of the term “United States” in the 13<sup>th</sup> Amendment was done to give the illusion that the Amendment prohibited slavery in the confederated States of the United States of America Union. Under the Articles of Confederation the term “United States,” in a plural geographical context, means the confederated States united under the Articles of Confederation. But under the Constitution of September 17, 1787, the same term, in a singular geographic context, means the United States Union of the federated States. Since most Americans are not aware of the multiple context sensitive meanings for the term “United State,” they are easily fooled into thinking the Amendment is applicable in the confederated States. Neither the United States of America nor the State governments have territorial jurisdiction over the confederated States. The prohibition of slavery under the 13<sup>th</sup> Amendment is limited to the territory owned by or ceded to the United States of America.

### **14.3 The 14<sup>th</sup> Amendment**

<sup>57</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - see the section on the Meanings of the Term “United States” for an analysis of this case.

The purpose of the Fourteenth Amendment was to overcome the opinion of the U.S. Supreme Court in the “Dred Scott” case, which held that Africans brought to America as slaves could not be citizens of the United States and neither could their free descendants be citizens of the United States.<sup>58</sup> After the Civil War and the subsequent abolition of slavery, the 39<sup>th</sup> Congress enacted the Civil Rights Act of 1866, which began with: *“That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition or slavery . . . shall have the same right, in every State and Territory in the United States, to make and enforce contract, to sue, . . .”*<sup>59</sup> As can be seen from the first sentence of the 1866 Civil Rights Act, the phrase “all persons,” as used in the act, meant all persons, regardless of their race or color and regardless of any previous condition of slavery. Concerns were quickly raised that such an act might be too easily repealed by a later Congress. So, shortly after the passage of the Civil Rights Act of 1866, the same Congress which enacted the Act began to draft the 14<sup>th</sup> Amendment. The 14<sup>th</sup> Amendment, ratified on July 9, 1868, defined “citizens of the United States,” using slightly different words from those used in the 1866 Civil Rights Act; clarified the rights of “citizens of the United States” to vote; and protected the privileges and immunities of the “citizens of the United States” from abridgement by the State governments.

### 14.3.1 **“citizens of the United States” Under the 14<sup>th</sup> Amendment**

**Constitution of September 17, 1787, Amendment 14, Section 1:** *“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”*

The first sentence of Section 1 of the 14<sup>th</sup> Amendment defined the “citizens of the United States” as: *“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”* The first two words in the 14<sup>th</sup> Amendment, “All persons,” mean all persons, regardless of their race or color and regardless of any previous condition of slavery.<sup>60</sup> These two words, “All persons,” effectively overturn the opinion of the U.S. Supreme Court in the “Dred Scott” case mentioned above.

<sup>58</sup> Dred Scott v. Sandford, 60 U.S. 393 (1856)

<sup>59</sup> 39<sup>th</sup> Congress Sess. I, Chap. 31; 14 Stat. 27. April 9, 1866

<sup>60</sup> **Wong Kim Ark, 169 U.S. 649 (1898), at 724** - *“By the Thirteenth Amendment of the Constitution, slavery was prohibited. The main object of the opening sentence of the Fourteenth Amendment was to settle the question, upon which there had been a difference of opinion throughout the country and in this court, as to the citizenship of free negroes, Scott v. Sandford, 19 How. 393, and to put it beyond doubt that all persons, white or black, and whether formerly slaves or not, born or naturalized in the United States, and owing no allegiance to any alien power, should be citizens of the United States, and of the State in which they reside. Slaughterhouse Cases, 16 Wall. 36, 73; Strauder v. West Virginia, 100 U.S. 303, 306.”*

To figure out the meaning of the 14<sup>th</sup> Amendment “citizens of the United States,” we must analyze the two different contexts for the term “United States,” as used in Section 1 of the 14<sup>th</sup> Amendment. The first context for the term “United States” is formed from the phrase “*All persons born or naturalized in the United States.*” People are born in some specific territory. Therefore, the first context for the term “United States” is geographical. Under Article I Section 8 Clause 17 of the Constitution of September 17, 1787, a specific territory named the “United States,” was created, consisting of the territory that is owned by the United States of America and scatter within the exterior borders of the several confederated States, over which the Congress has the power to exercise exclusive legislation. The “United States” was partitioned into the federated States under the same article and those federated States were united into the United States Union under Article I Section 2 Clause 3.

The second context for the term “United States” is formed by the phrase “*and subject to the jurisdiction thereof.*” The word “thereof” is a pronoun that refers to “United States.” Governments, but not districts/territories, can have a jurisdiction. Furthermore, the word “jurisdiction,” as used in the 14<sup>th</sup> Amendment, is singular. Therefore, we know that the pronoun “thereof” refers to the term “United States” in a singular political context and must be a reference to the United States of America government to be consisted with the rest of the Constitution of September 17, 1787 (see the section concerning Article I Section 8 Clause 17 for related details). To be subject to the jurisdiction of a government, you must be in the jurisdiction of the government, and the only territorial jurisdiction of the United States of America government is the territory owned by or ceded to the United States of America, which includes the 50 federated States of the United States Union, the District of Columbia, and the U.S. Territories. The territorial jurisdiction of the United States of America includes the “United States” but has a broader territorial scope than the term “United States.” Certainly a person born in the “United State” may be born subject to the jurisdiction of the United States of America.

The conclusion of this analysis is that since at least the establishment of the Constitution of September 17, 1787, a “citizen of the United States” has been a citizen of the United States of America government, a person owing allegiance to the United States of America government who is domiciled on territory owned by or ceded to the United States of America and therefore, subject to the federal laws of the United States of America. Other than overturning the above mentioned U.S. Supreme Court opinion in Dred Scott, the 14<sup>th</sup> Amendment did not change the meaning of a “citizen of the United States,” as implied in Article I Section 2 of the Constitution of September 17, 1787. Under the 14<sup>th</sup> Amendment, those born or naturalized in a federated State of the United States Union, subject to the jurisdiction of the United States of America, are a “citizens of the United States” and of the State in which they reside.

### **14.3.2 Constitutional Sources for Acquiring “citizen of the United States”**

The phrase “*subject to the jurisdiction thereof*” is a condition for acquiring the citizenship that applies at the time of acquisition. The majority opinion in the U.S. Supreme Court case of Wong Kim Ark was that “*subject to the jurisdiction thereof*” excluded “*children of sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes.*” The key pivotal decision in the majority opinion of this case was that children born

in the United States of resident aliens, who were not otherwise excluded, were citizens of the United States at birth.<sup>61</sup> Based on this pivot decision, the majority opinion of this case concluded that Wong Kim Ark, a person born in the United States of parents who, at the time of his birth, were subjects of the Chinese Emperor, resident in the United States and not employed in any diplomatic or official capacity, became a “citizen of the United States” at the time of his birth. The minority dissenting opinion in Wang Kim Ark was that all children born in the United States of aliens were excluded from acquiring “citizen of the United States” citizenship at birth because that could result in such a child acquiring dual nationalities, which has no place in our laws.<sup>62</sup> Of course, this minority opinion was overturned by the majority opinion in this case.

### 14.3.3 A “Citizen of the United States” is a Citizen of One of the Other States

Comparing the new meaning of phrase “citizens of the United States,” which emerged upon the ratification of the Constitution of September 17, 1787, with the Northwest Ordinance citizen annotated therein as a citizen “*of any other States that may be admitted into the confederacy*” reveals that the two citizens are one and the same. Both citizens owe allegiance to the United States of America government but not to a State government, both are domiciled on territory owned by or ceded to the United States of America and therefore, subject to the laws of the United States of America. The territory owned by or ceded to the United States of America is subdivided into administrative districts or States, known as the federated States of the United States Union under the Constitution of September 17, 1787 and “*the other States*” under the Northwest Ordinance. A federated State of the United States Union is the equivalent of one of “any other States” of the Northwest Ordinance. Both are an administrative subdivision of the territory owned by or ceded to the United States of America. Each administrative State of the United States of America government is administrated by a local administrative government. A citizen of the

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<sup>61</sup> **Wong Kim Ark, 169 U.S. 649 (1898) at 693** - *“The foregoing considerations and authorities irresistibly lead us to these conclusions: the Fourteenth Amendment affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including all children here born of resident aliens, with the exceptions or qualifications (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes.”*

<sup>62</sup> **Wong Kim Ark, 169 U.S. 649 (1898) at 719** - *“The Civil Rights Act became a law April 9, 1866 (14 Stat. 27, c. 31), and provided:*

*That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States.*

*And this was reenacted June 22, 1874, in the Revised Statutes, section 1992. .*

*The words “not subject to any foreign power” do not, in themselves, refer to mere territorial jurisdiction, for the persons referred to are persons born in the United States. All such persons are undoubtedly subject to the territorial jurisdiction of the United States, and yet the act concedes that nevertheless they may be subject to the political jurisdiction of a foreign government. In other words, by the terms of the act, all persons born in the United States, and not owing allegiance to any foreign power, are citizens.*

***The allegiance of children so born is not the local allegiance arising from their parents' merely being domiciled in the country, and it is single and not double, allegiance. Indeed, double allegiance, in the sense of double nationality, has no place in our law, and the existence of a man without a country is not recognized.”***



United States of America is domiciled in one of the administrative States of the United States of America government and therefore, is a citizen of that Administrative State, subject to taxation and regulation of the local administrative government of that administrative State and of the United States of America.

The only difference in the modern “citizen of the United States” from the original citizen “*of any other States that may be admitted into the confederacy*” is that the modern “citizen of the United States” has been broadened; it now includes citizens of the federated States, States which have already been admitted. However, though the federated States are already admitted, they are admitted to a Union different from the United States of America Union.

#### **14.3.4 State citizens under 14<sup>th</sup> Amendment**

Under Section 1 of the 14<sup>th</sup> Amendment, a “citizen of the United States” is also a citizen of the State wherein they reside. The word “reside,” as used in Section 1 of the 14<sup>th</sup> Amendment, means “domicile.”<sup>63, 64</sup> Generally, the word “citizen” is a civil status denoting a national who is domiciled within the territorial jurisdiction of the State of their nationality. A “citizen of the United States” is national of the United States of America government who has their domicile within the territorial jurisdiction of the United States of America, the territory owned by or ceded to the United States of America government.

The United States, as a Union, is a composite State comprised of the federated States of the United States Union. Furthermore, each federated States partially overlaps a confederated state. Therefore, a person who is domiciled in the United States is simultaneously domiciled in both one of the federated States and in the confederated States in which the federated State was erected. The natural question then becomes: Is such a “citizen of United States” a State citizen of the federated or the confederated State in which he resides? Such a “citizen of the United States” is always a state citizen of the federated State in which he resides for the following reasons:

- 1) Under the 14<sup>th</sup> Amendment, only a change in domicile was needed to become a state citizen of another State. But the confederated States would have required a new oath of allegiance to the new State government in order to become a state citizen of its confederated State.
- 2) Within the exterior border of a confederated State, both the State government and the United States of America government share concurrent territorial jurisdiction over only the federated State erected

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<sup>63</sup> **Newman-Green v. Alfonso Larrain, 490 U.S. 826 (1989)** - *“In order to be a citizen of a State within the meaning of the diversity statute, a natural person must both be a citizen of the United States and be domiciled within the State.”* See *Robertson v. Cease*, 97 U.S. 646, 648-649 (1878); *Brown v. Keene*, 8 Pet. 112, 115 (1834).”

<sup>64</sup> **Sharon v. Hill, 26 F. 337 (1885)** - *““Citizenship” and “residence”, as has often been declared by the courts, are not convertible terms. ... The better opinion seems to be that a citizen of the United States is, under the amendment [14th], prima facie a citizen of the State wherein he resides, cannot arbitrarily be excluded therefrom by such State, but that he does not become a citizen of the State against his will, and contrary to his purpose and intention to retain an already acquired citizenship elsewhere. The amendment [14th] is a restraint on the power of the State, but not on the right of the person to choose and maintain his citizenship or domicile.”*”



therein. Therefore the State citizen referred to in the 14<sup>th</sup> Amendment would have to be limited to being a citizen of one of the federated States.

- 3) Under the diversity statute, 28 U.S.C. §1332, a person is a "citizen of a State" if he or she is a citizen of the United States and a domiciliary of a State of the United States.<sup>65</sup> Only the federated States are States of the United States Union.

Under the 14<sup>th</sup> Amendment, a "citizen of the United States" is also a citizen of the federated State wherein they reside. But their primary citizen is with the United States of America government, and their State citizen is secondary, derived from being a citizen of the United States and their place of domicile.<sup>66</sup> A person can have only one domicile at a time, but their current domicile may be classified territorially at several different hierarchical governmental administrative levels, such as: federal, State, and municipal.<sup>67</sup> Saying one is a citizen of a federated States is the equivalent of saying that they are a "citizen of the United States." The dual citizenship is the results of the concurrent territorial jurisdiction shared between the United States of America and the several State governments, and the fact that the United States is a Union, a composite State consisting of other States.

The change of a person's citizen to some other government normally requires taking an oath of allegiance to the new government during a naturalization process. But, according to the 14<sup>th</sup> Amendment, a "citizen of the United States" can become a citizen of some other federated State by just changing their domicile to the new federated State. This indicates that the citizens of a federated state are quasi citizens, citizens who do not owe allegiance to the State government but only to the United States of America government. The lack of allegiance to the State government makes a citizen of a federated State different from a citizen of a confederated State. This author alleges that a citizen of a federated State is not a national of the federated State. In other words, the federated States are merely administrative subdivisions of the United States in which a certain degree of autonomy is granted to the several State governments in administering the federated States. Like the district government of the Northwest Territory, the State governments function as local administrators for the United States of America to administer the federated State located within their exterior borders. As a reward for acting as a local administrator for the United States of America, the several State governments have been conferred concurrent territorial jurisdiction over the federated States by the United States of America.

#### **14.3.5 Clarificaion of the Right to Vote for "citizens of the United States"**

**Constitution of September 17, 1787, Amendment 14, Section 2:** *"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole*

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<sup>65</sup> **Black's Law Dictionary, Sixth Edition, p. 244** - *"Under diversity statute [28 U.S.C. §1332], which mirrors U.S. Const, Article III's diversity clause, a person is a "citizen of a State" if he or she is a citizen of the United States and a domiciliary of a State of the United States.* Gibbons v. Udaras na Gaeltachta, D.C.N.Y., 549 F.Supp. 1094, 1116."

<sup>66</sup> **Slaughter-House Cases, 83 U.S. 36 (1872)** - *"The question is now settled by the fourteenth amendment itself, that citizenship of the United States is the primary citizenship in this country; and that State citizenship is secondary and derivative, depending upon citizenship of the United State and the citizen's place of residence"*

<sup>67</sup> **Title 28 Corpus Juris Secundum, Domicile, Section 6**

*number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.”*

Section 2 of the 14<sup>th</sup> Amendment altered Article I Section 2 Clause 3 of the Constitution of September 17, 1787. By the time the 14<sup>th</sup> Amendment was ratified, the State governments of all 13 original States had already ratified the Constitution of September 17, 1787. Therefore, the condition that Representation be apportioned among the several States “*which may be included within this Union,*” which appeared in Article I Section 2 Clause 3, was modified to remove the phrase “*which may be included within this Union.*” Also all of the freed Blacks were given equal weight in computing the State’s respective numbers for the apportionment of Representatives.

Section 2 of the 14<sup>th</sup> Amendment clarified that male inhabitants of the States, being 21 years of age and “citizens of the United States,” had a right to vote for members of the Congressional House of Representatives. These dual citizens, a federal citizen of the United States of America government and citizen of one of the federated States, also expressly had the right to vote for the State’s executive and judicial officers and members of the State’s legislature as well as the State’s electors for the President and Vice President of the United States of America.

If a State denies the right to vote to any such “citizen of the United States,” “*the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.*” The wording used to express the reduction in the basis of representation in a State for the denial of the right to vote suggests that the apportionment numbers were computed to include all male inhabitants of the State, being 21 years of age, whether a “citizen of the United States” or a state citizen of the confederated State. The 14<sup>th</sup> Amendment itself does not prohibit the state citizens of the confederated States from voting for their state government officials. But after the ratification of the 14<sup>th</sup> Amendment, the State Constitutions uniformly required the electors of the state government officials to be “citizens of the United States.” The several State governments were republic in form relative to the federated States but ceased to be republican in form relative to the confederated States.

Under Article II Section 1 Clauses 1 through 3 of the Constitution of September 17, 1787, the President of the United States of America is elected by the State’s Electoral College. Therefore, the phrase “*President and Vice President of the United States*” which appears in Section 2 of the 14<sup>th</sup> Amendment should be interpreted to mean the “President and Vice President of the United States of America.” Also, under Article I Section 3 Clause 5, the President and Vice President of the United States are chosen by the Senate, confirming that the phrase “*President and Vice President of the United States,*” as used in Section 2 of the 14<sup>th</sup> Amendment, should be interpreted to mean the “President and Vice President of the United States of America.”

### 14.3.6 Federal Enforcement Power Against State Governments

**United States Constitution, Amendment 14, Section 1:** *“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”*

**United States Constitution, Amendment 14, Section 5:** *“The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.”*

Under Section 5 of the 14<sup>th</sup> Amendment, Congress was granted the power to enforce the 14<sup>th</sup> Amendment by appropriate legislation. The portions of the Amendment that the enforcement provision are most applicable to are contained in Section 1. States were prohibited from making laws which abridged the privileges or immunities of “citizens of the United States.” Also, States were prohibited from depriving any person within its jurisdiction due process of law and equal protection of laws. The enforcement clause of the 14<sup>th</sup> Amendment involved enforcement against State governments, not people. The United States of America Confederacy government was always a government of States for which the States were subject to all decisions made by Confederation Congress. The State governments which ratified the 14<sup>th</sup> Amendment became bound to the terms/conditions contained in that Amendment, empowering the United States of America to enforce the provisions of the Amendment against the State governments.

### 14.4 15<sup>th</sup> Amendment

**Constitution of September 17, 1787, 15<sup>th</sup> Amendment, Section 1:** *“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude--”*

**15<sup>th</sup> Amendment, Section 2:** *“The Congress shall have the power to enforce this article by appropriate legislation.”*

The 15<sup>th</sup> Amendment, ratified on February 3, 1870, prohibited the United States of America government or any of the State governments from denying the right to vote of “citizens of the United States” based on race, color, or previous condition of servitude.

Closely related to the 15<sup>th</sup> Amendment are Amendments 19, 24, and 26, which also protect to right to vote of “citizens of the United States,” and also have provisions for federal enforcement. Amendments 19, 24, and 26, prohibited any State government from denying the right to vote of citizens of the United States by reason of being female, failure to pay a poll tax, or being 18 years of age or more, respectively.

### 14.5 16<sup>th</sup> Amendment

**Constitution of September 17, 1787, 16<sup>th</sup> Amendment –** *“The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.”*

The Sixteenth Amendment to the Constitution of September 17, 1787, ratified on February 3, 1913, is cited as the basis for the individual income tax. However, there was a constitutional federal income tax during the Civil War when there was no Income Tax Amendment. The difference between the Civil War income tax and the un-apportioned federal income tax of 1894, which was declared unconstitutional, was the inclusion of a duty to make a return of taxable income in Section 29 of the 1894 tax Act. The duty to make a list or a return of taxable property made the income tax of 1894 a direct tax requiring apportionment.

In one hundred years, no one has been able to satisfactorily explain the meaning of the 16th Amendment to the Constitution of September 17, 1787. The common explanation is that the 16th Amendment permits the Congress of the United States to tax all incomes everywhere is not a satisfactory one, because it is not true. Ratification of the Sixteenth Amendment is supposed to clarify the power of Congress to enact an income tax as an indirect tax, which would not be subject to apportionment calculated from the census numbers. The first comma in the 16th Amendment separates the word “*incomes*” from the phrase “*from whatever source derived*.” With the first comma in place, the prepositional phrase “*from whatever source derived*” modifies the noun “*power*” rather than the noun “*incomes*”. The purpose of that first comma is to limit Congress to its source of all taxation power, which is its military/proprietary power over the land owned by or ceded to the United States of America.

The true meaning of the 16th Amendment is that Congress has always had power to tax and regulate all activities within the territory owned by or ceded to the United States of America, without apportionment. That power to tax can be found in the Northwest Ordinance of July 13, 1787 and in Article I Section 8 Clause 1 of the Constitution of September 17, 1787. The source of the “*power to lay and collect taxes on incomes*” is found in the military/proprietary power of the Congress over the territory owned by the United States of America. The 16<sup>th</sup> Amendment is not the basis for the individual tax. However, the 16<sup>th</sup> Amendment does clarify the power of the Congress to enact an indirect tax on all privileged income producing activity within the United States, a power first made public in the Northwest Ordinance of July 13, 1787.

## 14.6 17<sup>th</sup> Amendment

**Constitution of September 17, 1787 – 17th Amendment (April 8, 1913):** “*The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.*”

The ratification of 17<sup>th</sup> Amendment, ratified on April 8, 1913, amended Article I Section 3 Clause 1 of the Constitution so that the method of choosing the Senators was modified from being chosen by the State’s Legislators to being elected by the people of the State. Just like the electors of the Congressional Representatives, the electors of Senators in each State shall have the same qualification requisite as the electors of the most numerous branch of the State Legislature, making the electors of a Senator dual citizens: a federal citizen of the United States of America government and a State citizen of the federated State in which they are domiciled.

## 14.7 18<sup>th</sup> Amendment

**Constitution of September 17, 1787 – 18<sup>th</sup> Amendment, Section 1** – *“After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.”*

The 18<sup>th</sup> Amendment, ratified on January 16, 1919 and repealed December 5, 1933, prohibited the manufacture, sale, transportation of intoxicating liquors within, importation thereof into, or exportation thereof from the United States and all territory subject to the jurisdiction thereof.

To understand where the sale of intoxicating liquors was prohibited, you have to figure out the meaning of the term “United States,” as used in the 18<sup>th</sup> Amendment. The term “United States,” as used in the 18<sup>th</sup> Amendment has two contexts. The first context for the term “United States” is formed by the phrase *“or exportation thereof from the United States”* and is geographical. According to the U.S. Supreme Court, within the Constitution of September 17, 1787, there is only one geographical meaning for the term “United States” and that meaning is the federated States of the United States Union and excludes the District of Columbia and the U.S. Territories.<sup>68</sup>

The second context for the term “United States” is formed by the phrase *“and all territory subject to the jurisdiction thereof.”* The word “jurisdiction” in this phrase is singular. Therefore, the pronoun “thereof,” as used in Section 1 of the 18<sup>th</sup> Amendment, refers to the “United States” in a singular political context and must mean the United States of America government to be consistent with the rest of the Constitution. The prohibition of a certain activity within a specific territory requires having territorial jurisdiction over the territory in which the certain activity is prohibited. The territorial jurisdiction of the United States of America is the territory owned by or ceded to the United States of America, and includes the 50 federated States of the United States Union, the District of Columbia and the U.S. Territories.

Since the territorial scope of “United States” is a subset of *“all territory subject to the jurisdiction thereof,”* it was not necessary to include the term “United States” in the 18<sup>th</sup> Amendment. The inclusion of the term “United States” in the 18<sup>th</sup> Amendment was done to give the illusion that the Amendment prohibited the sale of intoxicating liquors in the confederated States of the United States of America Union. Under the Articles of Confederation the term “United States,” in a plural geographical context, means the confederated States united under the Articles of Confederation. But under the Constitution of September 17, 1787, the same term, in a singular geographic context, means the United States Union of the federated States. Since most Americans are not aware of multiple context sensitive meanings for the term “United State,” they were easily fooled into thinking the Amendment was applicable in the confederated States. Neither the United States of America nor the State governments have territorial jurisdiction over the confederated States. The prohibition of the sale of intoxicating liquors under the 18<sup>th</sup> Amendment is limited to the territory owned by or ceded to the United States of America.

<sup>68</sup> **Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)** - see the section on the Meanings of the Term “United States” for an analysis of this case.

## 14.8 23<sup>th</sup> Amendment

**Constitution of September 17, 1787 – 23<sup>rd</sup> Amendment, Section 1** – *“The District constituting the seat of Government of the United States shall appoint in such manner as Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.”*

The 23<sup>rd</sup> Amendment, ratified on March 29, 1961, permits the District of Columbia to be treated like a federated States of the United States Union for purposes of presidential election process. The Congress directs the manner in which the District of Columbia shall select its Electoral College, much like the State legislature of a State directs the manner in which the State would select its Electoral College.

## 14.9 26<sup>th</sup> Amendment

**Constitution of September 17, 1787, 26<sup>th</sup> Amendment** – *“The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. Congress shall have the power to enforce this law through appropriate legislation.”*

The 26<sup>th</sup> Amendment, ratified on July 1, 1971, prohibited the United States of America government or any of the State governments from denying the right to vote of “citizens of the United States,” who are eighteen years of age or older, based on age.

The 26<sup>th</sup> Amendment is important because it confirms that a “citizen of the United States,” whether the citizenship is acquired under the 14<sup>th</sup> Amendment or under federal statutory law, is domiciled on territory owned by or ceded to the United States of America. A person must be of the age of majority in order to vote. In the confederated States of the United States of America Union, where English common-law is the law, the age of majority is 21 years. There is no English common law in the territory owned by or ceded to the United States of America. In a federated States of the United States Union, the State Constitution and the laws passed pursuant to that State Constitution is the law. But, the Constitution of September 17, 1787 is the supreme Law of “the Land,” where “the Land” is the United States Union. The territory owed by or ceded to the United States of America is the only place in which written law could make 18 years of age the age of majority. Therefore, all “citizens of the United States,” as used in 26 Amendment to the Constitution of September 17, 1787, must be domiciled on the territory owned by or ceded to the United States of America.

## 15 The Federal Court System



Immediately after ratification of the Constitution, Congress set out to legislatively establish a federal court system which it could use to manage the territory and community property belonging to the United States of America.

The section will :

- 1) Briefly describe the three primary courts in the federal court system.
- 2) Prove that the judicial districts of the federal courts consist exclusively of territory owned by or ceded to the United States of America
- 3) Prove that none of the federal courts exercise the judicial power of the United States of America and therefore, are incapable of dispensing justice.
- 4) Prove that the federal courts were legislatively created using the Article IV Section 3 Clause 2 power to *“make all needful rules and regulation respecting the territory and other property of the United States.”* These courts are limited to making decisions about territory or other property belonging to the United States of America. The federal trial courts function essentially as an extension of the legislative Branch, carrying out the will of Congress in administering federal franchises, contracts, and territory.

With the current federal court system, there are few if any federal crimes that can be committed outside federal territory. Congressional insiders know Congress can punish few acts outside of federal territory, so the federal territorial trial courts have been disguised as courts of justice for those who acquiesce to the jurisdiction of the federal Courts in federal prosecutions. As there is no evidence that the United States Code is law outside federal territory, the federal trial courts are limited to applying the United States Code within that territory. The only exceptions to this rule, called “extraterritorial jurisdiction,” which is acquired through consent of the parties involved. All extraterritorial jurisdiction enjoyed by Congress originates from federal contracts and franchise agreements. See the section on “Franchises” for more details.

### **15.1 Offices of “Chief Justices” and “Associated Justices”**

Chapter XVIII of volume 1 of the Statutes at Large, enacted on September 23, 1789, established the yearly compensations for:

- 1) The Offices of the Chief Justice and Associated Justices of the Supreme Court of the United States.
- 2) The Offices of the Judges of the District Courts of the United States.
- 3) The Office of the Attorney General of the United States.

The Offices of “Chief Justice” and “Associated Justice” were not ordained or established under the Constitution of September 17, 1787. Rather, all of the above mentioned Offices were legislated into existence under the September 23, 1789 Act which set the yearly compensation of those Offices. The Chief Justice, Associate justices and the Judges of the District Courts and United States Attorney General were all conceived in different ways as government employees, so the federal judiciary would be a system of government men instead of government laws.

### **15.2 The Judicial Act of September 24, 1789**

The Judicial Act of 1789, enacted into law on September 24, 1789 as Chapter XX of volume 1 of the Statutes at Large, established the judicial court system of the United States of America in which the judiciary is divided into three levels of courts.

### 15.2.1 The “Supreme Court of the United States”

**Judicial Act of 1789, Section 1** – *“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supreme court of the United States shall consist of a chief justice and five associate justices, any four of whom shall be a quorum, and shall hold annually at the seat of government two sessions, the one commencing the first Monday of February, and the other the first Monday of August. That the associate justices shall have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages.”*

Section 1 of the 1789 Judicial Act created the “Supreme Court of the United States,” consisting of one “Chief Justice” and five “Associated Justices.” The “Supreme Court of the United States” is the administrative version of the judicial “supreme Court” created under Article III of the Constitution of September 17, 1787. Section 1 of the Judicial Act of September 24, 1789 reveals that the Act was enacted by Senate and the House of Representatives, the Congress with legislative power. Only the Confederation Congress consisting of just the Senate has to power to ordain the Article III courts. Therefore the courts created by the Judicial Act of 1789 would be legislative courts rather than judicial courts. Being legislative, the four organic laws of the United States of America would limit the court’s jurisdiction to the territory owned by or ceded to the United States of America.

The Supreme Court had the power to appoint a clerk for the Supreme Court who was under oath to record all orders, decrees, judgments, and proceedings of the Court. The justices of the Supreme Court, before executing any of their duties, were also under an oath, an oath different from the oath contained in Article VI Clause 3 of the Constitution of September 17, 1787. The Supreme Court had:

- 1) Exclusive original jurisdiction over all civil actions between states, or between a state and the United States of America,
- 2) Exclusive original jurisdiction over all civil actions brought against ambassadors and other diplomatic personnel.
- 3) Original, but not exclusive, jurisdiction over all other cases in which a state was a party and any cases brought by an ambassador.
- 4) Appellate jurisdiction over decisions of the federal circuit courts as well as decisions by state courts holding invalid any statute or treaty of the United States; or holding valid any state law or practice that was challenged as being inconsistent with the federal constitution, treaties, or laws; or rejecting any claim made by a party under a provision of the federal constitution, treaties, or laws.

The U.S. Supreme Court is located in one of the judicial districts. The Attorney General prosecuted and conducted all suits in the Supreme Court in which the United States of America was the suitor.

### 15.2.2 The Judicial Districts

**Judicial Act of 1789, Section 2** – *“And be it further enacted, That **the United States shall be, and they hereby are divided** into thirteen districts, to be limited and called as follows, to wit: one to*

*consist of that part of the State of Massachusetts which lies easterly of the State of New Hampshire, and to be called Maine District; one to consist of the State of New Hampshire, and to be called New Hampshire District; one to consist of the remaining part of the State of Massachusetts, and to be called Massachusetts district; one to consist of the State of Connecticut, and to be called Connecticut District; one to consist of the State of New York, and to be called New York District; one to consist of the State of New Jersey, and to be called New Jersey District; one to consist of the State of Pennsylvania, and to be called Pennsylvania District; one to consist of the State of Delaware, and to be called Delaware District; one to consist of the State of Maryland, and to be called Maryland District; one to consist of the State of Virginia, except that part called the District of Kentucky, and to be called Virginia District; one to consist of the remaining part of the State of Virginia, and to be called Kentucky District; one to consist of the State of South Carolina, and to be called South Carolina District; and one to consist of the State of Georgia, and to be called Georgia District. ”*

Section 2 of the Judicial Act of September 24, 1789 created judicial districts from the then federated States. The pronoun “they,” as used in the first sentence of Section 2 of the 1789 Judicial Act, refers to the term “United States” in a plural geographic sense, and therefore is a reference to the confederated States. But each district consisted of just the federated State that was erected within the exterior borders of a confederated State. Section 2 of the 1789 Judicial Act confirms that each federated State was erected by overlaying the federated State on top of the confederated State. The territory of a federated State was not separated from the territory of the confederated State in which it was erected and therefore, the two States overlapped each other.

On September 24, 1789, only 11 of the State governments had ratified the Constitution of September 17, 1787 and the then federated States consisted of the “State of Massachusetts,” “State of New Hampshire,” “State of Connecticut,” “State of New York,” “State of New Jersey,” “State of Pennsylvania,” “State of Delaware,” “State of Maryland,” “State of Virginia,” “State of South Carolina,” and “State of Georgia.” Those eleven federated States of the first eleven ratifying States were erected within the exterior borders of the confederated States and consisted of the territory located therein that was to be purchased by the consent of the State legislature. Those first eleven federated States are listed in the last sentence of Article I Section 2 Clause 3 of the Constitution of September 17, 1787 and were the first eleven States of “this Union,” the United States Union. Direct taxes and representation are apportioned among the States which may be included in “this Union.” Except for the federated states of the “State of Massachusetts” and the “State of Virginia,” only one judicial district was created from each of the then existing federated States.

In anticipation of “Maine” splitting from the confederated state of “Massachusetts,” two judicial districts were formed from the federated “State of Massachusetts.” When “Maine” split from “Massachusetts,” the territory, located within the exterior borders of “Maine” that was owned by the United States of America was split off from the federated State by the name of the “State of Massachusetts” and was erected into a separate federated State by the name of the “State of Maine.” Prior to the split of “Maine” from “Massachusetts,” the territory that was to become the federated “State of Maine” was formed into a federal judicial district under the Judicial Act of 1789. Likewise, in anticipation of “Kentucky” splitting from the Confederate state of “Virginia,” two judicial districts were formed from the federated “State of Virginia.”

**Table 2** identifies all of the other Acts in which the federal judicial districts were initially created for all of the other States. Federal judicial districts were created from the federated States of the “State of North Carolina” and the “State of Rhode Island” in 1790, shortly after the governments of those States ratified the Constitution of September 17, 1787. For each of the admitted States, a federal judicial district was formed from the federated State that was erected within the exterior borders of the admitted confederated State as part of the double admission process.

Each district had an appointed District Attorney and an appointed District Marshal. A District Attorney acted as the attorney for the United States of America in prosecuting in his district all crimes and offences under the laws of the United States of America and all civil actions in which the United States of America was concerned. The duty of the District Marshal was to attend the federal Courts in his district and to execute throughout the district, all lawful precepts directed to him, and issued under the authority of the United States of America.

### **15.2.3    The District Courts**

In each of the federal judicial districts, Section 3 of the Judicial Act of 1789 created one District Court, consisting of one judge called a District Judge, which judge held four Court sessions annually and resided in the district. Each District Court had the power to appoint a clerk for the District Court, who also acted as the clerk for Circuit Court in its judicial district. The court clerk took an oath to faithfully record all orders, decrees, judgments and proceedings of the Court. The judges of the District Courts were under an oath, an oath different from the oath contained in Article VI Clause 3 of the Constitution of September 17, 1787, before executing any of their duties. Each District Court had:

- 1) Exclusively of the courts of the several States, cognizance of all crimes and offences under the laws of the United States of America **committed within their respective district** or upon the high seas, of which a less severe punishment is to be inflicted.
- 2) Exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction.

In the districts of Maine and Kentucky, the District Courts also had jurisdiction of all other cases, except of appeals and writs of error, which were made cognizable in a circuit court. In the districts of Maine and Kentucky, the Supreme Court had jurisdiction of all cases of appeals and writs of error which were made cognizable in a circuit court.

### **15.2.4    The Circuit Courts**

Except for the judicial districts of Maine and Kentucky, Section 4 of the Judicial Act of 1789 grouped the remaining 11 districts into three circuits. In each of the districts of a circuit, a Circuit Court was created consisting of the district judge of the district and any two justices of the Supreme Court who traveled to the various circuit courts in the circuit (“riding circuit”). Each circuit Court had:

- 1) Exclusive cognizance of all crimes and offences under the laws of the United States of America, where a more severe punishment is to be inflicted.
- 2) Original cognizance, concurrent with the courts of the several States, of all suits of a civil nature at common law or in equity, seeking damages in excess of \$500, involving the United States of America as plaintiff or diversity of citizens.

### 3) Appellate jurisdiction from the district courts

## **15.3 Circuit Courts Abolished**

Chapter 517 of Volume 26 of the Statute at Large, enacted on March 3, 1891, created a Circuit Court of Appeals in each of the judicial circuits and transferred the appellate jurisdiction of the Circuit Courts created in the Judicial Act of 1789 to the newly created Circuit Courts of Appeals, which are now known as the United States courts of appeals. On January 1, 1912, the effective date of the Judicial Code of 1911, the circuit courts were abolished, with their remaining trial court jurisdiction being transferred to the United States district courts. Thereby, the “United States courts of appeals” became the intermediate appellate courts and the “United States district courts” became the trial courts for the federal court system.

## **15.4 “County” Defined in Federal Law**

**1 U.S.C. §2** The word “county” includes a parish, or any other equivalent subdivision of a State or Territory of the United States.

In the English common-law system of law, a county was a subdivision of a State, defined by the county boundary lines, that typically included all the territory located within the county exterior border lines. Section 2 of Title 1 of United States Code defines the word “county” to mean all the territory located within the exterior borders of the particular county that is owned by or ceded to the United States of America. “*A State or Territory of the United States*” is territory owned by or ceded to the United States of America and includes: the 50 federated States of the United States Union, the District of Columbia, and the five U.S. Territories (U.S. Virgin Islands, Puerto Rico, Northern Marina Islands, and America Samoa). Any subdivision of territory that is exclusively owned by or ceded to the United States of America will always result in territory that owned or ceded to the United States of America. Therefore, 1 U.S.C. §2 defines the word “county” to mean all the territory located within the exterior borders of the particular county that is owned by or ceded to the United States of America.

Title 1, which is entitled “GENERAL PROVISIONS,” consists of eight sections that make up Chapter 1—Rules of Construction. As Title 1 Section 2 is a general rule of construction for the rest of 49 Titles of the United States Code, the meaning of the term “county” is not to be enlarged beyond the words of the statute. The inclusion of the word “includes” in the 1 U.S.C. §2 definition of “county” is an attempt by Congress to mislead the reader into erroneously concluding that the definition contained in 1 U.S.C. §2 is expansive and therefore, incorrectly conclude that the term “county” would also include the common-law definition of “county.” The definition is not expansive.

“This Constitution,” and the laws of the United States made in pursuance to that Constitution, is the Supreme law of the Land, where “the Land” is the United States Union. Therefore, for both federal and State written laws, the word “county” means all the territory located within the exterior borders of the particular county that is owned by or ceded to the United States of America.

## **15.5 Title 28 of the United States Code, 1940 Edition**

Title 28 of the 1940 edition of the United States Code is a codification of all prior judicial Acts, removing the repealed Acts and integrating all amendments into the original Acts, as in force on January 3, 1941.

The 1940 edition of the Title 28 is important because it is more straight-forward, compared to the current edition of the Title 28, about the composition of the federal judicial districts that were created within the exterior borders of the confederated States. Though the 1940 edition of Title 28 was repealed on June 25, 1948, the date in which Title 28 was enacted into positive law, a review of the 1940 edition is useful in demonstrating that the judicial districts consist exclusively of territory owned by or ceded to the United States of America.

Chapter 5 of Title 28 of the 1940 edition of U.S. Code contains the Sections which creates the judicial districts and district courts. The chapter starts with Section 141, which reads: “*Judicial districts. The United States are divided into judicial districts as follows:*” The term “United States,” as used in Section 141, is plural geographical, and therefore is a reference to the confederated States that existed on January 3, 1941. Sections 142 through 196 then lists the 48 confederated States which existed on January 3, 1941, starting with “Alabama”, “Arizona”, “Arkansas”, “California” . . . and ending with “Wyoming.” For each of the listed confederated State, the federated State that was erected within the exterior borders of the confederated States is identified as the portion of the confederated State that was divided into some specific number of districts/divisions. Each of the districts/divisions that a federated State is divided into includes only the territory embraced, on some specific date, in the counties that the district/division is comprised of.

Chapter 5 of Title 28 of the 1940 edition proves:

- 1) The confederated States are named: “Alabama”, “Arizona”, “Arkansas”, “California”, . . . “Wyoming.”
- 2) The federated States are named: “State of Alabama”, “State of Arizona”, “State of Arkansas”, “State of California”, . . . “State of Wyoming.”
- 3) Each federated State was erected by overlaying the federated State on top of the confederated State. The territory of a federated State was not separated from the territory of the confederated State in which it was erected and therefore, the two States overlapped each other. The territory of a federated States is a subset of the territory of confederated States in which it was erected.
- 4) The judicial districts of the federal court system consist exclusively of territory owned by or ceded to the United States of America. We know this to be true because the federated States, which consist exclusively of territory owned by the United States of America, were divided into districts/divisions. Also, per 1 U.S.C. §2, the meaning of “county,” which the districts/divisions are comprised of, is a subdivision of the territory owned by or ceded to the United States of America

The United States of America government may at any time sell some of its territory or, with the consent of the State legislature, purchase addition territory. Therefore, the territorial composition of a “county” is not static and may change. Though the exterior borders of a county are static, as territory is bought or sold within the exterior borders of a county, the territory embraced in the county changes. At any specific time, the territory embraced in a county was all territory located within the exterior borders of the country that was owned by or ceded to the United States of America. Due to the dynamic nature of the territory embraced in a county, the judicial districts/divisions had to be defined with a reckoning date. The inclusion of the reckoning date in each judicial district definition was needed in order to satisfy the Sixth Amendment’s requirement that the district be defined previously to the criminally committed act.



Shown below is a partial listing of the first four Sections of Chapter 5 of Title 28 of the United States Code, edition 4.

**28 USC §141.** Judicial districts. The United States are divided into judicial districts as follows:

**28 USC §142.** Alabama. The State of Alabama is divided into three judicial districts, to be known as the northern, middle, and southern districts of Alabama. The northern district shall include the territory embraced on the on the 1<sup>st</sup> day of July 1910, in the counties of Cullman, Jackson, Lawrence, Limestone, Madison, and Morgan, which shall constitute the northeastern division of said district; also the territory embraced on the date 1st mentioned in the counties of Colbert, . . .

**28 USC §143.** Arizona. The State of Arizona shall constitute one judicial district, to be known as the district of Arizona. Terms of the district court shall be held in Tucson on the first . . .

**28 USC §144.** Arkansas.

(a) The State of Arkansas is divided into two districts, to be known as the western and eastern districts of Arkansas.

(b) The western district shall include six divisions constituted as follows: The Texarkan divisions, which shall include the territory embraced on July 1, 1920, in the counties of Sevier, Howard, Little River, Hempstead, Miller, Lafayette and Nevada; the El Dorado division, which shall include the territory embraced on such date in the counties of Columbia, . . .

## **15.6 Title 28 of the United States Code, Current Edition**

On June 25, 1948, Congress revised and enacted Title 28, “Judiciary and Judicial Procedure,” into positive law. Being positive law, the Code found in Title 28 is evidence of the law.

### **15.6.1 Judicial Districts Consist Exclusively of Federal Territory**

Sections 81 through 131 of Chapter 5 of Title 28 of the U.S. Code created the district courts and defined the judicial districts, as of January 1, 1945. Not only does Chapter 5 define the districts in the then 48 States, but also for the then two territories of Alaska and Hawaii, the District of Columbia, and Puerto Rico. Alaska and Hawaii were not admitted until 1959. Clearly, on January 1, 1945, Alaska, Hawaii, District of Columbia, and Puerto Rico consisted exclusively of territory owned by or ceded to the United States of America. Therefore, the districts created therein would have to also consist exclusively of territory owned by or ceded to the United States of America. But what about the districts created in the 48 States?

The definition of districts contained in the current edition of Chapter 5 of Title 28 of the U.S. Code is more vague than the definitions contained in the 1940 edition of the Code because the definitions have been expanded to include not just judicial districts of the confederated States contained in the 1940 edition, but also the judicial districts of the District of Columbia and the U.S. Territories. As such, the current definitions do not explicitly identify a federated State as the geographic unit that is divided into judicial district because no federated States were erected within the exterior borders of District of Columbia or the U.S. Territories. For each listed confederated State, District of Columbia, and U.S. Territories, the current edition of Title 28 merely indicate some specific number of districts that the State, District of Columbia, or U.S. Territory is divided into. The current edition of Chapter 5 of Title 28 of the U.S. Code, gives the illusion that the districts created in the 48 States covers all the territory located within the exterior borders of confederated States. But with careful analysis, it is easy to prove that the

districts created in the 48 States still consist only of the territory located therein that is owned by the United States of America:

- 1) The only territory common to the 48 States, two territories, the District of Columbia and Puerto Rico is territory owned by or ceded to the United States of America Confederacy. Based on the rule of statutory construction known as “ejusdem generis,” the districts of the United States district courts must be composed exclusively of the federal land located within the counties that comprise those districts.
- 2) Under the heading “Notes” for each Section that defines the districts located within a confederated State, under the sub-heading “Historical & Revisions Notes,” it is revealed that the Section is “*Based on title 28, U.S.C., 1940 ed.*”. Therefore the 1940 edition could be referenced for clarification, but would not constitute legal evidence.
- 3) The enactment of Title 28 into positive law did not change the meaning of “county,” as defined under 1 USC §2. As a county is a subdivision of territory owned by or ceded to the United States of America, then the districts/divisions, which are comprised of counties, must also consist exclusively of territory owned by or ceded to the United States of America.
- 4) Under the heading “Notes” for Chapter 5 of Title 28, under the sub-heading “Historical and Revision Notes”, the following text appears: “*Sections 81-131 of this chapter show the territorial composition of districts and divisions by counties as of January 1, 1945.*” Most people would not recognize that one sentence as law due to its location. However, that one sentence must be considered and accounted for because it is part of the law. Nothing in written law can be ignored or eliminated without changing the whole law. That one sentence may be the most important sentences in the any of the 50 Titles of the U.S. Code because that sentence, in an encrypted manner, reveals that the judicial districts of the United States district courts are made up of the government land within the counties that comprise those districts.
- 5) Title 28 Section 1865 (b) of the United States Code deems any person qualified to serve on federal grand and petit juries unless he is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district. The age of majority under English common-law is 21 years. The age of majority at 18 years is possible only on territory owned by or ceded to the United States of America.

The districts/divisions are all defined as of the date, January 1, 1945, in order to satisfy the Sixth Amendment’s requirement that the district be defined previously to the criminally committed act. At the time of enactment of the Judicial Act of September 24, 1789, there was no mention of territorial composition because there was no territory owned by the United States of America in any of the 11 States which had ratified that Constitution. There is no mention of territorial composition in the 1940 edition of Title 28 Chapter 5 because that edition had made it clear that the judicial districts consist exclusively of federal land, by expressly dividing just the federated State that was erected within the exterior borders of each confederated State into a number of districts/divisions.

### **15.6.2 The District Courts Do Not Exercise the Judicial Power**

The District Courts, as of January 1, 1945, were created in Sections 81 through 131 of Chapter 5 of Title 28 U.S.C. Examination of all the district courts identified in Sections 81 through 131 of Chapter 5 of Title 28 reveals that only one district court in all of the 50 States, the United States district court for the

District of Hawaii, has been established as an Article III judicial court.<sup>69</sup> However, Sections 133 and 134 of Title 28 explains why the District Court of Hawaii cannot function as a court exercising judicial power. Congress has expressly provided that only Article IV territorial judges will be appointed to the United States district court for the district of Hawaii, so that court will never function as an Article III court. The district judges for the district of Hawaii are specifically to be appointed by the President pursuant to sections 133 and 134 of title 28, United States Code, as officers of the United States but not as judges of an Article III court. Those two sections are also to be used in appointing any of 7 judges of the Puerto Rico district should a vacancy occur there. It can be deduced that appointment pursuant to § 133 and 134 of Title 28, will always produce territorial judges.

## **15.7 None of the Federal Courts Exercise Article III Judicial Power**

This section compares the characteristics of the Article III Courts and Judges with that of the current federal Courts and Justices/Judges to prove that current federal Courts are not the Courts exercising the judicial power of the United States of America that are described in Article III.

- 1) Article III Section 1 Clause 1 of the Constitution of September 17, 1787 identifies the Officers of the “one supreme Court” and “such inferior Courts as the Congress may from time to time ordain and establish” as “Judges.” But, the Section 1 of Judicial Act of 1789 identified the Officers of the “United States Supreme Court” as consisting of one “Chief Justice” and five “Associated Justices.”
- 2) The Article III “one supreme Court” and “such inferior Courts as the Congress may from time to time ordain and establish” are ordained and established by the authority derived from the Judicial power of the United States of America. But the existing federal Courts are created by legislative authority of the United States of America derived from proprietary over the territory owned by or ceded to the United States of America.<sup>70</sup>
- 3) The Article III Judges were to be of the Judicial Branch of government. But the Chief Justice, as previously proven hereinbefore, is part of the legislative branch of government.
- 4) Per Article II Section 2 Clause 2, the “President of the United States of America/President,” has to power to nominate, and by and with the consent of the Senate, appoint the Judges of the one “supreme Court.” A ratified but un-adopted Constitution of September 17, 1787, left the Office of President vacant and the President of the United States of America without the power to nominate, and by and with the consent of the Senate, appoint the Judges of the supreme Court. Though ratification of the Constitution created the “one supreme Court” vested with the judicial powers of the United States, until the Constitution is adopted, there is no legal means to appoint the judges of the

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<sup>69</sup> [Pub. L. 86-3](#), § 9(a), Mar. 18, 1959, [73 Stat. 8](#), provided that: “*The United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall thence forth be a court of the United States with judicial power derived from article III, section 1, of the Constitution of the United States: Provided, however, That the terms of office of the district judges for the district of Hawaii then in office shall terminate upon the effective date of this section and the President, pursuant to sections 133 and 134 of title 28, United States Code, as amended by this Act, shall appoint, by and with the advice and consent of the Senate, two district judges for the said district who shall hold office during good behavior.*”

<sup>70</sup> **Balzac v. Porto Rico, 258 U.S. 298 (1922)** – “*The United States district court is not a true United States court establish under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article IV, § 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States.*”

“one supreme Court,” or of any other inferior Article III Courts ordained and established by the Congress. The Offices of “Judges” created under Article III remain vacant.

- 5) Per Article VI Section 3 of the Constitution of September 17, 1787, Article III judges are required to take and subscribe an oath that binds them “to support this Constitution,” the Constitution of September 17, 1787. There is no evidence that the justices of the Supreme Court, or the district Court judges, have ever taken the Article VI Section 3 oath of office. However, per the Judicial Act of 1789 (Section 8 of 1 Stat. 73, Chapter 20) the justices of the Supreme Court, and the district Court judges, take a much different oath without a provision that the oath taken is binding, proving that they are not Article III Judges.
- 6) Per Article VI Section 3 of the Constitution of September 17, 1787, no religious test shall ever be required as a qualification of office or public trust under the United States. The opinion in *Torcaso v. Watkins*, 367 U.S. 488 (1961), identified a belief or trust in God as a religious test. Therefore, the phrase “so help me God,” which appears in the current judicial oath taken by the justices of the Supreme Court and the district Court judges, is a religious test, proving that the justices of the Supreme Court and the district Court judges are not Article III judges.
- 7) Per the second sentence of Article III Section 1, the Article III Judge of both the supreme and inferior Courts were to have to hold their office during good behavior, which means that they had life tenure. There is no provision of life tenure in the Judicial Act of 1789 for either the Justices of the U.S. Supreme Court or the Judges of the U.S. District Courts. The district judges were not granted life tenure until June 25, 1948, when 28 USC §134(a) was enacted into law, proving that they are not Article III judges.
- 8) Per the second sentence of Article III Section 1, Article III Judges of both the supreme and inferior Courts were to receive for their services a compensation, which shall not be diminished during their continuance in office, which means that their compensation was protected against taxation. However, the compensations of justices of the Supreme Court, and of the district judges have always been subject to taxation, proving that they are not Article III Judges.
- 9) The Article III courts are ordained and established by the Confederation Congress, as their own separate independent sovereign Judicial branch of government. But the Judicial Act of 1789 (1 Stat. 73, Chap 20) legislatively created the federal courts without invoking the words “ordain and establish,” proving that they were legislatively created as a part of the legislation branch of government.
- 10) As explained in the previous section, Chapter 5 of Title 28 reveals that none district Courts exercise the judicial power of the United States of America.
- 11) Per Article III Section 2 of the Constitution of September 17, 1787, the judicial power of the United States of America extends to all cases involving a “diversity of State citizens,” where the word “State” is limited to the federated States of the United States Union.<sup>71</sup> However, per 28 USC §1332, the jurisdiction of district courts involving a “diversity of State citizens” includes citizens of the federated States, the District of Columbia and the U.S. Territories. 28 USC §1332(e) defines the word “State” applicable to that section of code: “*The word “States”, as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.*” The word “Territories” is a general term but the terms “District of Columbia” and “Commonwealth of Puerto

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<sup>71</sup> *Hepburn & Dundas v. Ellzey*, 6 U.S. 2 Cranch 445 445 (1805)

Rico” are specific territories which are owned by or ceded to the United States of America. Applying the "ejusdem generis" canon of statutory construction, “Territories” must also be specific territory owned by or ceded to the United States of America. Therefore, a State citizen, as used in 28 USC §1332, must include a citizen of one of the federated States, of the District of Columbia, or of one of the U.S. Territories. The expansion of State citizen, under 28 USC §1332(e), to include citizens of the District of Columbia and citizens of one of the U.S. Territories means that the U.S. district Courts described in Title 28 of the U.S. Code must not be the Courts described in Article III as ordained and established by the Confederation Congress, and vested with Judicial powers of the United States of America.

- 12) The Article III courts are ordained and established by the Senate, as the separate, independent and sovereign judicial branch of government. But, legislation enacted under 26 USC §6305(b) prohibits injunctions to restrain the enforcement or collection of the Internal Revenue taxes, in the courts of the United States. Applying the Separation of Power Doctrine, one can only conclude that federal Courts are not in the judicial branch of government but rather, must be a part of the legislation branch of government.
- 13) The purpose of the Article III courts is to provide justice and the protection of rights of the people. But all civil cases where the United States of America is the plaintiff, the issue of the case is the protection of government property, including government franchises such as Social Security, under the powers delegated to the Congress in Article IV Section 3 Clause 2 of the Constitution.

## **15.8 Federal Jury Selection**

Under 28 U.S.C. §1863, each district court is required to design and implement a plan/procedure that achieves a random selection of grand and petit jurors from a cross section of the community in the district or division wherein the court convenes. The plan/procedure typically shall include the following:

- 1) either establish a jury commission, or authorize the clerk of the court, to manage the jury selection process.
- 2) Collect from State officials either “lists of actual voters” or “voter registration lists” and “lists State issued Driver’s Licenses and IDs” of the persons in the judicial district.
- 3) Enter names from the “lists of voters” and “lists State issued Driver’s Licenses and IDs” into the Master Jury Wheel.
- 4) Randomly select some minimal number of names from the Master Jury Wheel and build the master list of perspective jurors from the selected names.
- 5) Have each perspective juror fill out the “Jury Qualification Form.”
- 6) After completion of the “Jury Qualification Form” the names of prospective jurors who are deemed legally qualified to serve are placed in a Qualified Jury Wheel.
- 7) Randomly selects names from the Qualified Jury Wheel, assigning the selected persons to grand and petit jury panels, and summoning the selected persons to appear for jury duty.

The jury questionnaire in common use merely asks the perspective juror a half dozen questions beginning with, if he or she is a citizen of the United States and a resident of the judicial district for at least a year. Grand and petit jurors determine if they are citizens of the United States and whether they have resided in judicial district for a year. But very few Americans can prove that they are, indeed, citizens of the United States and practically no one understands that the Sixth Amendment requires that territorial composition



of the judicial districts be established prior to trial. For all of the States, district court vicinage is the federal territory within the counties that comprise the district. This is the only vicinage that satisfies the 6<sup>th</sup> Amendment command that the “district shall have been previously ascertained by law.” Most perspective jurors who complete the “Jury Qualification Form” erroneously think the district is comprised of all the territory within the exterior borders of the counties that comprise the district and will erroneously complete the Jury Qualification Form accordingly. A perspective juror’s false impression of what constitutes the judicial district does legally qualify the perspective juror.

## **15.9 No Qualified Federal Jurors**

The 6<sup>th</sup> Amendment requires that in all criminal prosecutions, the accused enjoy the right of a speedy public trial by an impartial jury of the State and district wherein the crime shall have been committed. 28 U.S.C. §1865(b) requires that a person serving on a federal juror be resident within the judicial district for a period of one year. It was thoroughly proven above that the judicial districts of the federal courts consist exclusively of territory owned by or ceded to the United States of America. Furthermore, the judicial districts located within the exterior borders of the confederated States are uninhabited by the general public as, per Article I Section 8 Clause 17 of the Constitution of September 17, 1787, that territory is for forts, magazines, arsenals, dock-yards, and other needful buildings. Therefore, unless a prosecution is taking place in the district court of the District of Columbia, most likely none of the persons of the juror meet the resident requisite.

The Confederation Congress is limited to the powers delegated to it by the Articles of Confederation of November 15, 1777 and the proprietary power it has over territory owned by or ceded to the United States of America. The English common-law is applied by common-law juries to common folk involved in common activities not subject to State or federal laws. Common law juries are not qualified to render verdicts in State or federal cases and federal jurors are unqualified to render verdicts in common law cases.

## **15.10 Best Defense Against Federal Criminal Indictment**

The United States district trial courts do not exercise the judicial power of the United States of America and therefore, are incapable of dispensing justice. Furthermore, regarding the federal judicial districts located within the exterior borders of a confederated State, none of the persons on a grand or petit jury meet the resident requisite required by law. Therefore, the best defense against an indictment for an alleged federal crime committed in such a district may be to move to dismiss the indictment on the ground of the failure of the court to comply with the grand jury selection procedure.

Under 28 U.S.C. §1867 (a), in criminal cases, within certain time constraints, the defendant may move to dismiss the indictment on ground of substantial failure of the court to comply with the grand jury selection procedure.

Under 28 U.S.C. §1867 (f), the parties in a case are allowed, during the preparation of a dismissal motion, to inspect and copy the records or papers used by the jury commission or court clerk in connection with the jury selection.



Back in the bad old days of racial discrimination, women and minorities were never allowed to be seated on grand juries and trial (petit) juries. Grand and petit juries were challenged on racial grounds, but no one had ever challenged a grand or petit jury on territorial jurisdiction grounds. The territorial jurisdiction of United States district courts are limited to federal territory located within the counties which comprise the judicial district of the court.

You cannot be indicted, if not enough of the jurors who voted for the indictment are U.S. citizens and residents of the district. Any grand and petit juror that resides outside of federal territory does not reside within the district and can successfully be challenged as unqualified. Of course, any detective could place the grand/petit jurors outside of government territory and therefore, outside the judicial district. The United States Supreme Court case of *Test v. United States*, 420 U.S. 28 (1975) established the absolute right of a federal criminal defendant to make a motion to dismiss the indictment because the grand jurors are not qualified.

### **15.10.1 No Qualified State Jurors**

In Section 203(a) of the Code of Civil Procedure, the State of California Legislature has enacted the qualifications that every trial juror must meet. Section 203(a) is a list of exclusions. “All persons are eligible and qualified to be prospective trial jurors, except” those who possess the exclusions. We need only discuss the first four exclusions, because “[a]ll persons” refers to all persons in the State of California and only one exclusion is required to disqualify.

Section 203(a) All persons are eligible and qualified to be prospective trial jurors, except the following:

- (1) Persons who are not citizens of the United States.
- (2) Persons who are less than 18 years of age.
- (3) Persons who are not domiciliaries of the State of California, as determined pursuant to Article 2 (commencing with Section 2020) of Chapter 1 of Division 2 of the Elections Code.
- (4) Persons who are not residents of the jurisdiction wherein they are summoned to serve.

As was discussed above, the “State of California” is the federated State erected within the exterior borders of “California,” consisting of the territory located therein that is owned by the United States of America. Also, the age of majority at 18 years of age indicates that the jurisdiction wherein the persons are summoned to serve and are residents of can only be territory owned by the United States of America. For the same reasons as given above, there are no qualified State jurors.

## **16 Taxes**

The lesson of taxation in America is that no matter how little it is, it will be increased until it is too much.

### **16.1 The Two Kinds of Taxes: Direct and Indirect**

The two basic types of taxes are direct & indirect. Assessment is the essential element of both types of taxation in which the tax amount is determined and the tax liability is created.

#### **16.1.1 Direct Tax**

A direct tax is a tax on either the people themselves or the property of the people, either real or personal property, that are located within the realm. A ruler of some specific realm may impose a direct tax on the people in the realm. The assessment for a direct tax on people, in general, would simple be the amount of tax revenue to be raised divided by the number of people in the realm. On the other hand, a direct tax on some specific type of property located within the realm, in general, in order to be fair, would be apportioned among the owners of the taxable property according to the value of their taxable property. The assessment of a direct tax on all alcohol producing property located in the realm would require all owners of the alcohol producing property to make lists, or returns, of their alcohol producing property, including their property appraised value, so that the amount of the tax sought to be collected could be apportioned among the owners according to the value of their alcohol producing property. If a direct tax has been laid, payment of the tax by those in within the realm is mandatory. If you are paying a direct tax, you, or your property, may be within the realm of the king. You could also be just making a gift.

#### **16.1.2 Indirect Tax**

An indirect tax is a tax on a privileged activity within the realm over some taxable period. To partake in a privilege activity within the realm often requires a license. The assessment of an indirect tax requires some predetermined unit in which to measure the amount of taxable activity and an accounting of the units of the taxable actively over the taxable period. The tax rate per unit of activity may be uniform, but does not have to be, such as with the current progressive federal individual income tax in America. A ruler of some specific realm may impose an indirect tax on the production of alcohol, measured in gallons of alcohol produced, within the realm. An assessment of an indirect tax on the production on alcohol during any taxable period, would require any one person producing the alcohol to make a list, or return, of the number of gallons of alcohol produced within the realm during the taxable period. The actual assessment for the person would involve multiplying the units of activity by the appropriate tax rate for the person's volume of production. If an indirect tax has been laid, those in within the realm can avoid paying the tax by avoiding the taxable activity. If you are paying indirect taxes, you may be producing income on the property of the king. You could also be just making a gift.

### **16.2 Establishment of Taxation in the United States Union**

#### **16.2.1 Only Consensual Tax Permitted in the United States of America Union**

The Declaration of Independence of July 4, 1776 and Articles of Confederation of November 15, 1777 permit only consensual taxation within the United States of America Union.

### **16.2.2 Articles of Confederation - Direct Tax on Land Attempted**

A confederation was proposed in the Articles of Confederation of November 15, 1777, wherein Article VIII provided for a direct tax on lands in the States, to “*be laid and levied by the authority and direction of the legislatures of the several States.*” Article VIII of the Articles of Confederation conceded the power to tax real property to the several States of the perpetual Union, when there is no evidence that the power of direct taxation of people or property survived the removal of a hereditary autocrat.

### **16.2.3 Notice of Taxation in the Resolution of April 23, 1784**

According to the Resolution of April 23, 1784, by the United States in Congress assembled, the inhabitants of the “Western Lands” “*shall be subject to pay a part of the federal debts contracted or to be contracted; to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States.*”. The subject territory of the April 23, 1784 Resolution is territory ceded, or to be ceded, to the United States of America by the original States with land claims to the “Western Lands.” However, the United States of America would not acquire any authority for the power to tax until May 23, 1786 when it first became a proprietor owner of the Northwest Territory.

### **16.2.4 Ordination of Taxation Under the Northwest Ordinance**

Article 4 of the Northwest Ordinance of July 13, 1787 singled out the inhabitants and settlers of the Northwest Territory to pay taxes to reduce the federal debt: “*The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress.*” At the time of the ordainment of the Northwest Ordinance, the United States of America was the sole proprietary owner of the Northwest Territory. The six articles found in the Northwest Ordinance contain the proprietary/martial law of the United States of America over the Northwest Territory, territory owned by or ceded to the United States of America. The United States in Congress assembled had military & proprietary power over the Northwest Territory and therefore, had the authority to tax its inhabitants. But it lacked the bureaucracy it needed to lay and collect the taxes. The authority for the entirety of Title 26 Internal Revenue Code can be traced back to Article 4 of the Northwest Ordinance, the third organic law of the United States of America.

### **16.2.5 Establishment of Taxation Under the Constitution of September 17, 1787**

The ratified Constitution of September 17, 1787 had only one direct application to people—taxation of the inhabitants of the United States Union. The proprietary power of the United States of America was expanded to include territory located within the exterior borders of the original confederated States that was to be purchased with the consent of the State legislature, territory that was named the “United States” under Article I Section 8 Clause 17 of the Constitution of September 17, 1787. Indirect taxes shall be uniform across the United States and direct taxes shall be apportioned among the States of “this Union,” the United States Union.

The ratification of the Constitution of September 17, 1787 created a permanent Government for the United States and provided the bureaucracy needed to lay and collect taxes that was lacking in the temporary district government created under the Northwest Ordinance.

### **16.3 Specific Federal Taxes and Tax Acts**

The purpose of federal taxation has always been for the payment of the debts of the United States of America, first for the approximately 75 million dollar debt resulting from the American Revolution and then for all the debt caused by the spending of every Congress under the Constitution of September 17, 1787.

#### **16.3.1 Early Taxation**

Alexander Hamilton, the first Secretary of the Treasury, devised the federal tax system based upon duties on goods imported into the United States, carriages operated in the United States and whiskey distilled in the United States. During this era of early taxation in America, the precedence of subjugating Americans by unwarranted taxation was established. The Congress of the United States enacts taxation and other laws which are limited to the United States, the territory owned by the United States of America. But the common tendency among Americans to conflate “United States” and “United States of America,” was exploited to extend the laws outside of the United States to the confederated States of the perpetual Union for those who could not distinguish between “United States” and “United States of America.” Furthermore, the Whiskey Rebellion was put down with the military might of the United States of America, stifling further opposition to the extension of federal legislation and taxation to the confederated States.

##### **16.3.1.1 Taxation on Goods Imported into the United States**

The second law enacted by the First Congress on July 4, 1789, just 3 days after the enactment of a the new oath of office, was “An Act for laying a Duty on Goods, Wares, and Merchandise imported into the United States.” Importers paid the first federal taxes in the form of imposts and duties on goods imported into the United States.

##### **16.3.1.2 Taxation on Whiskey Distillated in United States**

The first internal excise tax was a tax on the distillation of alcohol on March 3, 1791, which led to the famous Whiskey Rebellion. The excise tax on the distillation of alcohol didn’t mention the United States as the situs of the distillation requiring licensure. But Congress had no authority to tax outside federal territory. Therefore, the excise tax on the distillation of alcohol was applicable only within the United States.

The federal license to distill alcohol in the United States would require the payment of an excise tax on every gallon of alcohol they produced. The patriots, who participated in the Whiskey Rebellion, sensed the federal government was overreaching when the excise tax on the distillation of alcohol enacted by Congress was sought to be imposed on farmers in the Allegheny Valley of Pennsylvania. The American farmers who constituted the Whiskey Rebellion refused to be licensed to distill alcohol on their own farms, which were not located on territory owned by the United States of America and therefore, not

subject to the tax. Pennsylvania farmers formed an armed rebellion against the whiskey tax aptly named the Whiskey Rebellion.

Washington knew the Whiskey Tax Rebels didn't owe the tax, but since no one had figured out his oral oath scam, he was confident no one would figure out the federal taxation fraud and the central government would grow. As President of the United States of America and Commander in Chief of the militias of the thirteen States, he was able to call those State militias "into the actual Service" of the United States of America to stop the tax revolt. In 1794, George Washington assembled an army of about 13,000 militia to march west against frontier farmers who were protesting unlawful federal taxation. The Whiskey Tax Rebels fought hard for what they believed was right, but George Washington himself put the Whiskey Rebellion down with more troops than he ever commanded in the American Revolution War. The use of overwhelming military force, the "shock and awe" of the time was sufficient to impose this and all other federal taxes beyond the United States, into the United States of America.

George Washington, the first President of the United States, enforced federal taxes using military power. Use of military power to administer federal laws, beyond the United States was just one of the many precedents Commander in Chief George Washington established during his two terms as President of the United States and President of the United States of America. Then, as now, no one distills alcohol on federal territory; but all alcohol distilled in America is still subject to "the whiskey tax."

#### **16.3.1.3 Taxation on Carriages Operated in the United States**

On June 6, 1794 Congress enacted the Carriage Tax, 1 Stat. 373, "[T]hat there shall be levied, collected and paid, upon all carriages for the conveyance of persons, which shall be kept by or for any person, for his or her own use, or to be let out to hire, or for the conveying of passengers, the several duties and rates following, to wit:" The tax was upheld as constitutional by the Supreme Court in *Hylton v. United States*, 3 Dall. 171; 3 U.S. 171, (1796). Although the tax on carriages made no reference any geographical territory, the excise tax on the operation of wheeled vehicles only applied on vehicles operated on territory owned by or ceded to the United States of America. But the tax was enforced against anyone who failed to understand the federal government and Constitution. The carriage tax was repealed by Congress two years after its enactment and provided the authority for all State vehicle licensing, regulations and taxation.

The federal government has been waging war on the American people since the Whiskey Rebellion was put down and two participants were criminally charged in 1794. Ever since the Whiskey Rebellion, it has been an endless war of taxation, followed by wars against poverty, drugs, illegal immigration, terrorism and anything in opposition to the military government.

#### **16.3.2 Federal Income Tax**

During his two terms as President, George Washington would also form the basis of the Internal Revenue Service. First, he established the false idea that the "United States" extended beyond the territory owned by or ceded to the United States of America. Second, he signed laws providing that persons declaring themselves to be citizens of the United States could get discounts on United States duties and imposts. Third, he appointed collectors of import revenues who would be empowered to employ persons to assist them in the performance of their revenue collection duties. Fourth, he appointed Collectors of

Internal Revenue who would collect the first tax on vehicles and the hated whiskey tax, which would result in the Whiskey Rebellion.

#### **16.3.2.1 1894 Income Tax Act, An Unconstitutional Un-Apportioned Direct Tax on Property**

A direct income tax is a direct tax on income, the property of the earner. Congress tried to impose the duty to pay an income tax on ordinary individuals in the 1894 Income Tax Law and the United States Supreme Court held the entire law unconstitutional because it amounted to a direct tax which was not apportioned.

Section 29 of the 1894 Income Tax Act imposed a duty: *“That it shall be the duty of all persons of lawful age having an income of more than three thousand five hundred dollars for the taxable year, computed on the basis herein prescribed, to make and render a list or return, on or before the day provided by law, in such form and manner as may be directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to the collector or a deputy collector of the district in which they reside, of the amount of their income, gains, and profits, as aforesaid . . .”* The imposition of a duty to make a list or return of income, gains, and profit made the 1894 Income Tax a direct tax on property.<sup>72</sup> The Constitution of September 17, 1787 requires all direct taxes to be apportioned. The 1894 income tax was declared unconstitutional because it was a direct tax without apportionment.

#### **16.3.2.2 16<sup>th</sup> Amendment – Income Tax as an Indirect Tax Not Requiring Apportionment**

See the section concerning the 16<sup>th</sup> Amendment for details.

#### **16.3.2.3 1913 Income Tax Act, An Indirect Tax**

The October 3, 1913 federal income tax Act, 38 Stat. 114, imposed no duty on individuals to make a return, is not apportioned, and yet, was ruled to be Constitutional. Therefore, the income tax must be an indirect tax on a privileged activity within the United States, the territory owned by or ceded to the United States of America. The net income that is reported on the tax form is not the object being taxed but rather is a measurement of the amount of the privileged income producing activity within the United States for the tax year that is being taxed.

The 1913 federal income tax law repealed the 1909 federal corporate excise tax on corporations domestic to the United States and, in Paragraph G of the law, imposed the Individual Income Tax on corporations. The individual federal income tax was declared to be constitutional in the case of *Brushaber v. Union Pacific R.R.* 240 U.S. 1 (1916), in which a corporate shareholder sought to restrain a corporation from voluntarily paying the individual federal income tax. The Supreme Court of the United States rightly found no basis upon which to enjoin a corporation from voluntarily paying the individual federal income tax.

The 1913 Income tax Act, being only 17 pages long and the basis from which the current Internal Revenue Code is derived, is a great way to learn the basics of the current income tax law. It is one of the

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<sup>72</sup> *Pollock v. Farmer’s Loan and Trust Co.*, 157 U.S. 429 (1895) and *Pollock v. Farmer’s Loan and Trust Co.*, 158 U.S. 601 (1895).



most concise and direct sources for proving who is subject to the income tax, what territory is included in the term “United States,” and from who’s income an employer may lawfully withhold taxes. The President of the United States is specifically named as a future taxpayer in the 1913 federal income tax law.

Under the 1913 Income Tax Act, corporations organized in the United States, “citizens of the United States”, and “residents” of the United States are taxed on all their net incomes, no matter where in the world derived. Corporations not organized in the United States but conducting business in the United States and “non-residents” of the United States who own property or conduct business in the United States are taxed only on their net income which is derived from the United States. Therefore, to properly determine if a person is subject to the 1913 Income Tax Law, it is imperative that the reader understand the key and pivotal term “United States,” as used in this Act.

#### **16.3.2.3.1 “United States” Defined for Purposes of the Income Tax Law**

**Section II Paragraph H of the 1913 Income Tax Law:** *“That the word “State” or “United States” when used in this section shall be construed to include any Territory, Alaska, the District of Columbia, Puerto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.”*

Section II Paragraph H of the 1913 Income Tax Law defines the term “United States” to be all territory owned by or ceded to the United States of America Confederacy. The word “Territory,” as used in the definition, is capitalized, designating some specific special territory. Also, Alaska, the District of Columbia, Puerto Rico, and the Philippine Islands are the only explicitly listed States in the definition and these States were all, in 1913, federal territory owned by or ceded to the United States of America. Therefore, the more generalized term of “any Territory” contained in Section II Paragraph H of the 1913 Income Tax Law would have to also be limited to territory owned by or ceded to the United States of America, which would include the federated States located within the exterior borders of the confederated States, such as the “State of California.” This conclusion is based on the application of the rule of statutory construction known as “ejusdem generis.”

The word “include,” as used in Section II Paragraph H of the 1913 Income Tax Law, does not expand the definition of the “United States” beyond the territory owned by or ceded to the United States of America Confederacy. Hence, the confederated States of the United States of America Union, such as “California,” are not included in the “United States!”

***Ejusdem generis.*** Of the same kind, class, or nature. In the construction of laws, wills, and other instruments, the "ejusdem generis rule" is, that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. U. S. v. LaBrecque, D.C. N.J., 419 F.Supp. 430, 432. The rule, however, does not necessarily require that the general provision be limited in its scope to the identical things specifically named. Nor does it apply when the context manifests a contrary intention.

Under "ejusdem generis" canon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to

things of the same general class as those enumerated. *Campbell v. Board of Dental Examiners*, 53 Cal.App.3d 283, 125 Cal. Rptr. 694, 696.

**[Black's Law Dictionary, 6<sup>th</sup> Edition, p. 517]**

#### **16.3.2.3.2 Persons Made Subject to the 1913 Income Tax Law**

**Section II Paragraph A Subdivision 1 of the 1913 Income Tax Law:** *“That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen there of, a tax of 1 per centum per annum upon such income, except as hereinafter provided; and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all properly owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere.”*

Section II Paragraph A Subdivision 1 of the 1913 Income Tax Law levied a “normal income tax” of 1% on the net incomes on three classes of persons.

- 1) “citizens of the United States”, whether residing at home or abroad, are taxed on their entire net incomes accruing from all sources.
- 2) “Residents” of the United States were taxed on their entire net incomes accruing from all sources.
- 3) Non-residents of the United States are taxed on their net incomes derived from the “United States.” This expressly includes income from all property owned and of every business, trade, or profession carried on in the United States.

Section II Paragraph G(a) of the 1913 Income Tax Law made the individual income tax applicable to every corporation and company. However if a corporation or company is not organized under the laws of the United States and is organized under the laws of any foreign country, then only the net income accruing from business transacted and capital invested within the United States are taxed.

#### **16.3.2.3.3 Withholding of Tax at Source of Income Limited to Persons Subject to the Tax**

**Section II Paragraph D of the 1913 Income Tax Law:** *“ . . . and also all persons, firms, companies, co partnerships, corporations, joint-stock companies or associations, and insurance companies, except a hereinafter provided in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical, gains, profits, and income of another person subject to tax shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal income tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of such person or stating that the name and address or the address, as the case may be, are unknown”*

Section II Paragraph D of the 1913 Income Tax Law required that the normal tax of a taxable person be deducted and withheld at the source of income by the person, company, or corporation making the payment and also required that the person deducting and withholding any income tax to render a return of the portion of the income of each person from which the normal tax has been thus withheld. The

required deduction and withholding of tax is expressly limited to the income of another person subject to tax.

#### **16.3.2.3.4 More Minor Points of the 1913 Income Tax Law**

Section II **Paragraph A Subdivision 2** of the 1913 income Tax law made the tax a progressive tax. Section II **Paragraph B** of the 1913 Income Tax law made the net income of a taxable person subject only to such exemptions and deductions as allowed in Paragraphs B & C of Section II. Section II **Paragraph C** of the 1913 Income tax law gave each taxable person a \$3,000 exemption to be deducted from their net income, plus an additional exemption of \$1,000 in married and living with their spouse. Section II **Paragraph D** of the 1913 Income tax law made the net income of taxable persons, after the deduction of all allowable deductions and exemptions, taxable. Section II **Paragraph E** of the 1913 Income Tax Law required the Commissioner of Internal Revenue to assess all taxes, notify all persons of the amount for which they are respectively liable on or before the first day of June of each successive year, and required said assessments to be paid on or before the thirtieth day of June. Section II **Paragraph F** of the 1913 Income Tax Law penalized all persons liable to make a return or pay a tax who failed to do so at the specified time.

#### **16.3.2.3.5 Conclusion of 1913 Income Tax Act**

For a private sector employer to lawfully deduct and withhold taxes from the income of one of its employees without consent, the employee would have to a person made subject to the tax. Section II Paragraph A Subdivision 1 of the 1913 Income Tax Law identifies the persons made subject to the tax as: “citizens of the United States,” “residents” of the United States and, non-residents of the United States who have income derived from the United States.

Section II Paragraph H of the 1913 Income Tax Law defines the term “*United States*” to be all territory owned by or ceded to the United States of America. The confederated States of the United States of America Union, such as “Michigan” or “California,” States where most Americans live, are not included in the definition of “United States” found at Section II Paragraph H of the 1913 Income Tax Law. Also, the federated States located within the exterior borders of the confederated States, such as the “State of Michigan” and the “State of California,” States which are not inhabited by the general public, are included in the definition of the “United States.” Except for national park rangers and military camp personnel, very few people can be found in the federated States of the United States Union. If a person is not a “citizen of the United States” and is not a resident of the United States, nor has any income producing activity in the United States, then that person is not a person made subject to the income tax law. Furthermore, persons whom are not made subject to the income tax laws and who do not give consent to the withholding of a tax from their income are persons whom the employer may not lawfully withhold a tax from.

Most American people are not a “citizen of the United States,” do not physically live in the United States, nor physically have any income producing activity in the United States. However, the previous paragraph must be interpreted with caution because the United States of America government has devised a sneaky scheme for creating a legal presence in the United States for many America, relative to their earnings. The disclosure of a SSN when applying for a job in the private sector will make those earnings

associated with the SSN into taxable income which is connected with a trade or business in the United States. See the section on Franchises for details.

#### **16.3.2.4    1952 Reorganization of the Internal Revenue Bureau into the IRS**

During the history of federal taxation, from 1789 to the present, there have been two systems employed by the United States of America to assess and collect internal revenue. Both systems of assessment and collection are explained below, as is the reason for abandoning the original system.

##### **16.3.2.4.1    Pre-1952, Law-Enforced Assessment of Taxes**

For the first 163 years of federal taxation, from 1789 to 1952, all federal taxes were collected by no more than 65 Collectors of Internal Revenue. Each Collector of the Internal Revenue had been appointed by the President of the United States of America with the advice and consent of the Senate and was bonded in an amount determined by the Commissioner of Internal Revenue. The Collectors of Internal Revenue, Officers of the United States of America, were from the Bureau of Internal Revenue, which, during this 163 year era, was a part of the Treasury of the United States of America. Only the Senate can create public debt. But, because the Office of Collector of Internal Revenue was created by the Senate with the express duty to collect taxes and because the Collectors were appointed by the President of the United States of America with the advice and consent of the Senate, the Collectors of Internal Revenue had the power of the Senate to assess taxes as a public debt, levy and collect federal taxes and, most important, the power of distraint - the authority to seize the property of the tax debtor for non-payment. All internal revenue received by the Collectors was paid into the Treasury of the United States of America. Neither the Secretary of the Treasury nor the Commissioner of Internal Revenue possessed the power to levy and collect any federal tax and therefore, were incapable of delegating those powers to another. The Collectors could collect federal income taxes by simply asking that they be calculated and paid.

The third Organic Law of the United States of America, the Northwest Ordinance of July 13, 1787, established that the territorial jurisdiction of the United States of America government was limited to territory owned by or ceded to the United States of America. Furthermore, the fourth Organic Law of the United States of America, the Constitution of September 17, 1787, created the United States Union of federated States. Each federated State consists of the territory located within the exterior borders of a confederated State that is owned by the United States of America. Within the Constitution of September 17, 1787 the term “United States” is limited to the United States Union. But in connection with the territorial jurisdiction of the United States of America, the territorial scope of the “United States” is broader and includes the United States Union, the District of Columbia, and the U.S. Territories. Therefore, the powers of the Collectors to assess an internal revenue tax and collect the tax were legally limited to persons with a nexus to the United States.

The early excise taxes on the distillation of alcohol and the use of carriages were all collected by Collectors of Internal Revenue. Initially assessments were performed by the Assessors and collections by the Collectors of Internal Revenue. The Act enacted on December 24, 1872 (27 Stat. 401), consolidated the duties of assessments and collections into the Collectors of Internal Revenue and Deputy Collectors, and abolished the Offices of Assessors and Assistant Assessors. This system of using the Collectors of Internal Revenue and the Deputy Collectors to assess and collect internal revenue is a

system based on law enforced assessment and collection. The Collectors of Internal Revenue survived many forms of novel taxation during their tenure, including the 1894 federal income tax, but the Collector of Internal Revenue couldn't survive the government's 1952 plan to expand federal income taxation by turning the country into a democracy where anyone could volunteer to pay taxes.

The history of federal taxation from 1789 to 1948 is told in the United States Government Printing Office publication, "The Work and Jurisdiction of the Bureau of Internal Revenue," which is available by doing an Internet search on that title.

#### **16.3.2.4.2 Purpose of 1952 Reorganization of the Internal Revenue Bureau**

The legal limitation on the power of the Collectors of Internal Revenue to assess and collect internal revenue taxes was a severe limitation because most Americans had no nexus to the United States. All tax payments were made to bonded individuals. Therefore, if a Collector of Internal Revenue ever exercised his power of assessment beyond his legal limits, the affected person could pay the tax under protest and then sue to get his money back by proving that they were not a person subject to the tax. As Americans began to learn of the limitations of the tax liability, the tax base began to shrink and, in 1952, a new approach for taxing Americans would commence with the reorganization of the Internal Revenue Bureau.

In the confederated States, the power of the people to assess and collect taxes is a personal power limited to their personal wealth. A person may assess, collect and pay a tax which she or he has personally levied on herself or himself, but that person has no power, by themselves or combined with others, to levy a tax on any other person or persons. Therefore, the expansion of the federal government's legitimate taxation into the confederated States meant that the Collectors of Internal Revenue had to go.

#### **16.3.2.4.3 Post-1952, Voluntary Self-Assessment of Taxes**

The 1952 the reorganization of the Internal Revenue Bureau eliminated the only two Offices of the United States of America authorized to assess and collect federal internal revenue, returning the "power to lay and collect taxes on incomes" back to Senate of the United States of America where it remains today. The abolition of the Offices of Collector of Internal Revenue and Deputy Collector of Internal Revenue was part of a plan by various Presidents of the United States of America and Congresses to expand the federal government's legitimate taxation power beyond the United States, the territory owned by or ceded to the United States of America Confederacy, by removing all the tax collecting Officers of the United States of America. The abolition of the Collectors of Internal Revenue ended tax protests, because there was no one to accept a contested payment of taxes and all payments were made without assessment, notice, or demand.

The loss of the Deputy and Collector of Internal Revenue meant the loss of the power to assess and collect taxes by notice and demand of payment. The change in the name of the Bureau of Internal Revenue to Internal Revenue Service noted that loss of authority. After December 1, 1952 no internal revenue could be mandatorily assessed or collected, so the federal income tax system became a voluntary system. With the Collectors of Internal Revenue gone, the only way to create an income tax liability was by self-assessment by the people themselves. Any American could voluntarily swear a federal income tax was owed. Rather than assessing and collecting income taxes under force of law, the new system would rely on deception, fear, and ignorance of the American people for the people to voluntarily

self-assess and pay an income tax, regardless of whether or not such an American had any nexus to the United States. Any such American who voluntarily self-assessed and paid an income tax became a taxpayer. Due to ignorance of the law, most Americans obey the laws of a foreign jurisdiction to which they are not subjected.

The sixty-four Collectors of Internal Revenue were replaced by one Secretary of the Treasury, who would now perform the assessment and collection functions of the abolished Collectors of Internal Revenue and Deputy Collectors of Internal Revenue. Pursuant to 26 U.S.C. §6301, "The Secretary shall collect the taxes imposed by the internal revenue laws." However, like all laws of the United States of America, the internal revenue laws are limited to the United States, the territory owned by or ceded to the United States of America. **Regulations require those people with a nexus to the United States to self-assess and pay the self-assessed tax. But for those people with no nexus to the United States, the regulation does not pertain to them and the self-assessment of taxes is purely voluntarily.** For any tax debt that was created through self-assessment but not paid, all enforcement provisions of the internal revenue law could be enforced against such a tax debtor. The Secretary of the Treasury hired the IRS and issued delegation orders which he claims authorizes IRS to perform the assessment and collection function in accordance to the internal revenue code.

#### **16.3.2.4.3.1 Income Tax Payments Confirmed to be Gifts to Government**

The payment of taxation was declared to be a gift to the English monarch since the Declaration of Rights of 1765 and the consensual nature of taxation was confirmed in the Declaration of Independence of July 4, 1776. As government debt is not personal debt, taxation for the payment of government debt or for the use by government is a gift to government. The 1952 abolition of the Collector of Internal Revenue and Deputy Collector of Internal Revenue confirmed federal taxation as a gift to government. Without the aforementioned officers all tax payments by persons with no nexus to the United States are gifts to government. It follows that a debt cannot be created from a gift that is not made.

#### **16.3.2.4.3.2 The Abusive Internal Revenue Service**

The Internal Revenue Service is a federal government bureaucracy composed of thousands of employees, but only two United States Officers, the Commissioner of the Internal Revenue Service and the Internal Revenue Service General Counsel. Neither of these two Officers has been charged by Congress with the duty/power to assess a tax nor the duty/power to impose one by notice and demand for payment. The employees of the Internal Revenue Service, without the authority of the Collectors of Internal Revenue, began providing support services directly to the members of the public who assessed and collected federal taxes for themselves and others. IRS employees run the Internal Revenue Service for their benefit and the continued growth of the federal government. They can't be fired for fear they will expose the rest of government. IRS employees are like all other employees in that they can't be held responsible for the crimes of the employer, if they carefully say: "Make a return and pay what you owe," which means voluntarily fill out a 1040 United States Individual Income Tax Return and pay the tax on the return. IRS employees could and did accept payments voluntarily made into the Treasury of the United States. When payments were not volunteered, IRS employees pretended to be Collectors of Internal Revenue.



The set of conditions under which the IRS operated produced a cadre of super powerful federal bureaucrats capable of gross misconduct arising from their exercise of the master's taxing power while under Civil Service protection, and the protection of respondent superior. Today, Internal Revenue Service employees use taxpayer profiling to such an extent they are willing to create from an innocent person the false profile of a federal tax criminal. For almost everyone, IRS taxpayer profiling results in having their life taken from them with little or no self-defense. Government taxpayer profiling is common to all dictatorships. When taxpayer profiling is successful, government can claim another contributor to its social causes and someone's identity is stolen. Once a free inhabitant of these United States of America is profiled to be a taxpayer, both the federal and State governments are permitted to begin inventing federal and State tax liabilities by posting as public records Internal Revenue Service employee fabricated Notices of Federal & State Tax Liens. How do we know that Notices of Federal & State Tax Liens are bogus documents? Employees cannot create a public debt, which is what these Liens are alleged to be. Everyone knows only the Senate of the United States of America can create public debt. All such notices of any kind are shams. The IRS employees abet the theft of property of those who they have unjustly profiled to be federal taxpayers.

#### **16.3.2.5 1998 IRS Restructuring & Reform Act**

The 1950 and 1952 Internal Revenue Service Reorganization Plans abolished the Collector of Internal Revenue and Deputy Collector of Internal Revenue making federal taxes collectible without notice or demand. The Congress of the United States would not get around to recognizing how taxes were paid without notice or demand until the IRS Restructuring and Reform Act of 1998, Pub. L. 105-206, title III, §3707, July 22, 1998, 112 Stat. 778. Congress had prior to 1998 legislated two meanings in Title 26 for its made-up word "taxpayer," which defined that term as someone subject to a tax:

**Section 1313(b)** Notwithstanding section 7701(a)(14), the term "taxpayer" means any person subject to a tax under the applicable revenue law.

**Section 7701(a)(14)** The term "taxpayer" means any person subject to any internal revenue tax.

After 1952 no one in government had authority to make another subject to a tax. Therefore the term "taxpayer" was re-defined in Section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 to one who files a return for two consecutive years and who pays the tax on the return. The effect of Section 3707 of the Act was codified in the Note section to 26 U.S.C. §6651.

#### **Internal Revenue Service Restructuring and Reform Act of 1998**

**§ 3707(a) PROHIBITION.** —The officers and employees of the Internal Revenue Service—

- (1) shall not designate taxpayers as illegal tax protesters (or similar designation); and
- (2) in the case of any such designation made on or before the date of the enactment of this Act [July 22, 1998]—
  - (A) shall remove such designation from the Individual Master File; and
  - (B) shall disregard any such designation not located in the individual master file

**§3707 (b) DESIGNATION OF NONFILERS ALLOWED.**—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

The Internal Revenue Service Restructuring and Reform Act of 1998 confirmed the 1952 Reorganization and 1954 Code by prohibiting the use of the term, “illegal tax protester,” by the only persons actively “collecting” federal taxes, IRS employees.

#### **16.3.2.6 Other Specific Sections of the Title 26, the IRS Code**

The Internal Revenue Service is authorized under 26 USC §7602 to summons a person made liable to federal excise taxes to appear, to testify or produce books and records to ascertain the correctness of a return or making a return where none has been made.

The Internal Revenue Service is required under 26 USC §7604 to place the person within the territorial jurisdiction of a United States district court in order to lawfully summons the records of the alleged taxpayer.

Title 26 United States Code Section 7806 is a long winded way of saying that only English sentences count as law. Where these sentences are found in the law makes no difference—the sentence tells all. Therefore, to determine what any written communication from any government means, you must excise all words, phrases, numbers or combinations of these which are not in a sentence. To make the message of the government document absolutely clear, it is suggested to make several copies of the communication. You can then blacken non-sentence matter in one and highlight sentences in another, by comparing these copies you can determine what government is claiming and what it can prove.

### **16.4 State’s Authority to Tax**

This section demonstrates how the several State governments acquired to power to tax and also explains the limitation of the State governments to lay a direct tax.

#### **16.4.1 The Territorial Jurisdiction of State Governments is Their Federated State**

The Declaration of Independence of July 4, 1776 declared the 13 colonies to be free and independent States. It established that the depository of political power in the United States of America is the American people. The Declaration of Independence also established that all men are created equal and endowed by their Creator with certain unalienable Rights. Therefore, individually, each of the people had all the rights of a king but no subjects to rule over except for themselves. Not possessing the power to tax other free people or to regulate their private unalienable rights, the collective people of a State were incapable of delegating such a power to another group of people called government. However, a government of such a State would be able to tax artificial persons and any grants of public rights by the State. Artificial persons, such as corporations, are creations of the State and therefore can be taxed and regulated by the State. Public rights, such as the right to incorporate, are not the private rights that the people are endowed with by their Creator but instead, are privileges granted by the State which can be taxed by the State.

Full ratification of the Articles of Confederation of November 15, 1777 by all 13 original States was completed on March 1, 1781, creating the United States of America common defense alliance and the United States of America “perpetual” Union. The Articles of Confederation contained the terms by which 13 States agreed to participate in a centralized form of government, in addition to their self-rule. The

States delegated to the Confederation Congress all their international powers, and those national powers which were more efficiently exercised by the central government. The States expressly retained their sovereignty, and every power and right that was not expressly delegated by the articles to the United States of America government. No powers over the internal affairs of the States, including legislative powers over the people, were delegated to the United States of America government in the Articles of Confederation. Thereby, the United States of America government became a government of States, but not a government of people, and the United States of America Union became a Union of confederated States. No territory was yet owned by the United States of America government.

On May 28, 1786, upon the completion of the cession by Connecticut of its claim to a large strip of land running across the Northwest Territory, the United States of America became the sole proprietor owner of the Northwest Territory. Then on July 13, 1787, through an exercise of its military/proprietary powers, the Confederation Congress ordained the Northwest Ordinance of 13 July 1787, creating a temporary district government for the Northwest Territory. Unlike the confederated States, the power being used to govern the Northwest Territory was not a power inherent in and delegated by the people of the Northwest Territory, but came from the proprietary/military power of the United States of America. The proprietary/military power of the United States of America includes the power to tax the people, their property, and any privileged activity, but is limited to territory that is owed by or ceded to the United States of America. For the first time, the United States of America government had its own citizens that it could tax and regulate.

The Northwest Ordinance established that the proprietary/military power of the United States of America is the basis for all territorial jurisdictions in the United States of America Confederacy. Under the Northwest Ordinance, new territorial States were created in the Northwest Territory which, upon acquiring sufficient inhabitants, could be admitting to the United States of America Union, on equal footing with the original State. The Northwest Ordinance conferred concurrent territorial jurisdiction to each confederated State (the collective people of the State), whether original or to be admitted, over the territory located within the exterior borders of the confederated State that was owned by the United States of America.

The Constitution of September 17, 1787 created a territory named the “United States,” consisting of territory that is owned by the United States of America and scatter within the exterior borders of the several confederated States, over which the Congress has the power to exercise exclusive legislation. The Constitution of September 17, 1787 also partitioned the “United States” into States. The collective federal land located within the exterior borders of a confederated State is a State of the United States over which concurrent territorial jurisdiction is shared between the United States of America and the State government. Each of those States of the United States were united by the State’s Representatives to the Congressional House of Representatives under Article I Section 2 Clause 3 and federated by the division of territorial powers between the United States of America government and the State governments under Article I Section 8. Thereby, the United States Union of federated States was created. The United States of America Union of confederated States exists in parallel with the United States Union of federated States. Each federated State is erected with the jurisdiction of a confederated State. A federated State overlaps the confederated State in which was erected.

All political powers of the collective people of a confederated States were delegated by the people to their State government through their State's Constitution. The several State governments govern all the territory located within the exterior borders of their confederated State using the powers inherent in and delegated by the people, which powers excludes the power to tax other free people but includes the power to tax artificial persons and public rights of the State granted to a particular person or persons. The several State governments also govern all the territory located within the exterior borders of their confederated State that is owned by the United States of America using the proprietary/military power of the United States of America that was conferred to the confederated States. The proprietary/military power of the United States of America includes the power to tax the people, their property, and any privileged activity, but is limited to the territory that is owed by or ceded to the United States of America. Therefore, the territorial jurisdiction of the several State governments is limited to their federated State, the territory located within their exterior borders that is owned by the United States of America.

The power of taxation of people, property or privileged activities by the State governments is limited to the federated State erected within their exterior borders.

#### **16.4.2 State's Power of Direct Tax and its Limitations**

A direct tax is a tax on either the people themselves or the property of the people, either real or personal, that are located within the realm. The realm of the United States of America is the United States, the territory that is owned by or ceded to the United States of America. The realm of the several State governments is their federated State, the territory located within their exterior borders that is owned by the United States of America. This section explains why the direct taxation power of a State government is limited to personal property located with its federated State.

##### **16.4.2.1 Power of Direct Tax on People Claimed by the Federal Government**

The direct taxes of Article I Section 2 Clause 3 of the Constitution of September 17, 1787 that is apportioned among the several States which may be included within "this Union," according to their respective numbers of persons, is clearly a direct capitation tax on persons which is apportioned among the federated States of the United States Union by the United State of America government. This direct capitation tax on persons is referred to as "*Taxes*" in Article I Section 8 Clause 1. The Confederation Congress claims the power to lay a direct capitation tax on person located within the United States in Article I Section 8 Clause 1. Because "this Constitution" is the supreme law of the land in the United States and the federated States are geographical subdivisions of the United States, the State governments may not exercise the power to lay a direct capitation tax on persons located within their federated State as this power has been claimed by the Confederation Congress. A direct tax on persons has never been laid in the United States.

##### **16.4.2.2 Direct Taxation Power Limited to Personal Property in the United States**

Since the United States of America makes no claims to the power to lay a direct tax on property in the "enumerated powers" of Article I Section 8 of the Constitution of September 17, 1787, the State governments are free to exercise the power to lay a direct tax on property located in their federated State. However, the Northwest Ordinance prohibited the State governments from imposing a tax on the lands and property of the United States of America. Also, all territory of the federated States is exclusively

owned by the United States of America. Hence the power of direct taxation of the several State governments is limited to the private personal property located within their exterior borders that is on territory owned by the United States of America.

#### **16.4.2.3 State's Claim of Power to Lay a Direct Tax on Real Property is Invalid**

The State Constitutions contain an invalid claim of power for the county and city municipalities to impose local real property taxes. The Office of the Los Angeles County Tax Assessor makes this bold claim on its website: "State law mandates that all property is subject to taxation unless otherwise exempted. Your property taxes support necessary services provided to the residents of Los Angeles County. These include law enforcement, fire protection, education, parks and recreation, and other vital services."

To what State law does the LA Tax Assessor refer?

#### **CALIFORNIA CONSTITUTION, ARTICLE 13 TAXATION**

**SEC. 1.** Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

What doesn't the Assessor tell you?

The several State governments impose property taxes on the land located in the confederated States of the United States of America Union based on a statement in their State Constitutions that all property with certain exceptions is taxable. That Statement in the State's constitution is based on Article I Section 2 Clause 3 of the United States Constitution and nothing else. The previous three sections explain why claim of authority of the State governments to tax real property located in the confederated States is an invalid claim.

The "Government of the State of California" may apportion a direct tax only on all personal property located in the federated State of the "State of California." Real property located in the confederated State of "California" may not be tax by the "Government of the State of California."

You can confirm that your State has no authority to impose a property tax on your land and any improvements to that land by asking the property tax assessor and property tax collector in "your" county for proof of their authority to assess and to collect taxes. The States, counties and municipalities are unable to cite authority for real property taxation for one simple reason—there is none.

#### **16.4.2.3.1 Voluntary Nature of Real Property Tax Bill**

Black's Law Dictionary 4th Ed. defines Gift as "A voluntary transfer of personal property without consideration." That same dictionary defines a Demand as "A debt or amount due," and as "An

imperative request preferred by one person to another, under a claim of right, requiring the latter to do or yield something or to abstain from some act.”

The Northwest Ordinance of July 13, 1787 permitted the temporary taxation of the settlers and inhabitants on territory owned by or ceded to the United States of America and the Constitution of September 17, 1787 made that taxation permanent.

Now that 56 federal States have been admitted into the United States Union, and 37 of those States have had their Senators accepted by the Senate, why do real property owners continue to pay property taxes? If no demand has been made for the payment of a property tax, then any voluntary transfer of personal property that you may make as a “payment on property tax” is a gift.

When gold and silver was the coin of the realm, tax collectors had to be bonded, so that the government was protected from an absconding collector. Property tax collectors are not required to be bonded, because property taxes are paid voluntarily with fiat currency. Sure, a property tax bill is sent out, but that was done at your request. Somewhere on the deed to your property will appear the request to send the property tax bill to you.

#### **16.4.2.3.2 Take your Real Property off the Tax Rolls**

Decoding the Constitution of September 17, 1787 reveals a military power to tax people, personal property, and privileged activities in the United States, the territory owned by or ceded to the United States of America. The right of a true owner to the full value of the land has been contrived into the power of real property taxation by twisting a few phrases to put your real property into the United States. Ask any assessor or property tax collector for proof of authority and some financial assurance for the faithful performance of that authority and the truth will soon be revealed to you.

Stop giving all your attention to Congress. Local law is all written for territory owned by or ceded to the United States of America. Start asking your local county assessor and property tax collector if he or she knows the difference between what you own and the territory owned by or ceded to the United States of America. It would be a mistake to challenge taxation at the top where it is strongest. First, demand that your property be removed from the property tax rolls. You will soon learn no government official claims authority to remove property from the tax rolls, so why shouldn't you have the right to remove it.

If you can be forced to pay any amount of real property taxes that an assessor claims is due, you have no unalienable right to own property. Fail to pay property taxes and government will initiate a process that will eventually result in the loss of your property for the alleged non-payment of property taxes. How can you avoid the total loss of your property for non-payment of property taxes? You must, of course, take your property out of the United States. Placing yourself and your property within the United States is a voluntary act of enfranchisement whereby you declare yourself to be a resident of the United States. The United States is the territory owned by or ceded to the United States of America. So any property, real or personal, left on government land is subject to government regulation, taxation and even confiscation.

You are the owner of your real property, which is located in the “Nebraska,” a confederated State of the United States of America Union. However, until you correct the county written records, your land title will show that your property is located in the federated State of the “State of Nebraska” rather than



“Nebraska.” The “State of Nebraska” is the federated State that was erected within the exterior borders of “Nebraska,” consisting of the territory therein that is owned by the United States of America. Because the written records incorrectly show that your real property is located in the State of Nebraska, you became subject to taxation and the jurisdiction of a foreign government. In a sense, you have become subject to a kind of mental slavery specific to a place that for most people only exists on paper.

It seems incredible, but the only legal basis for real property taxes in America ended when King George III lost the American Revolution War. When there was a king, the king’s men would put property on the taxable property list. With the king gone, no one but the owner of property could declare his or her property taxable. The property tax rolls for the “Government of the State of Nebraska” lists all the taxable real properties which are supposedly located in the “State of Nebraska.” Those tax rolls were created when someone who once owned your property failed to object to the inclusion of that property on the assessment list. Someone without a legal education, in your property’s past, put it on the taxable property tax list, but with the right knowledge, you can take it off that list.

The process is very simple: just tell the government to remove your property from the tax rolls. The county recorder of deeds has never read any of the Organic Law and won’t begin now. That officer does understand the written law and regulations that concern the administration of the office that he or she occupies. That statute law says what can be filed and what can be recorded by him or her. The State of Nebraska, or any other State, limits the county recorder to filing and recording documents that affect title to property located only within the State of Nebraska and within his or hers specific county. State law in the State of Nebraska requires the recorder to act in a specific way. Tap into that law and all you have to do is the factual work of proving your property is not territory owned by and ceded to the United States of America. To successfully present your case to the administrative bureaucrat, you must present this law to the bureaucrat in reverse order to the way you will be taught the law, or the county recorder will not get to that part of the law that limits the county recorder to filing and recording documents that affect title to property located only within the State of Nebraska.

It will take persistence and perseverance, but any property not located on federal territory eventually may be removed from the county’s tax rolls. The new reality every municipality must face is the fact that the Declaration of Independence had it right—that taxation required informed consent.

Dr. Eduardo Rivera, of Organic Law Institute, teaches his advanced students how to find the State law which limits the documents that may be filed and recorded by the county recorder and provides guidance on successfully presenting their case to the administrative bureaucrat.

### **16.4.3 State Indirect Taxes**

The American people freed themselves from the tyrant King George III and nothing short of a coronation of a new monarch can re-impose monarchical power upon them, including the taxation upon their unalienable rights. One of the unintended consequences of independence is the freedom from taxation for those who would not be citizens. The opportunity to engage in commerce is an unalienable right of every human being and the realization of that opportunity is a fundamental basis of civilization. So, why are there sales and income taxes on commerce?

Immediately after gaining their independence, American politicians began plotting a return to the status quo ante bellum. By the time the Constitution of September 17, 1787 was ratified, tyrannical government was back and taxation was returning to what it had been under King George III. Today, taxation is much worse than what it was under King George III thanks to George Washington and the Federalists. Founding Father George led in the creation of a federal government of federated States consisting of governments with law making power over:

- 1) Territory owned by or ceded to the United States of America.
- 2) Everyone who believed they lived or worked on such territory.

#### **16.4.3.1 State Income Tax**

The 1940 federal Buck Act (54 Stat. 1059, Chap. 787), codified in Sections 104-113 of Title 4 of the United States Code, allows State governments to extend their power of taxation to include sales tax and income tax on persons residing, carrying on business, or making sales in the federal areas located within the exterior borders of their confederated State. Prior to the 1940 federal Buck Act, the State governments could impose an income tax only on citizens.

Though the 1940 federal Buck Act extends the imposition of income taxes by State governments only to the federated State located within their exterior borders, due to widespread ignorance and incompetence within the legal profession and public law enforcement, the State's income tax laws are commonly unlawfully enforced against free inhabitants of the confederated States who made no income from within the United States nor reside in the United States. The misapplication of the State income laws against free inhabitants is also largely due to the fact that most free inhabitants incorrectly think that they live and work within the United States and therefore, out of ignorance, they voluntarily accept themselves a tax liability by filing federal and State income tax forms, even though there was no tax liability prior to the filing of the tax forms.

The State of California licenses corporations to do business in the State of California and those corporations pay a tax on income earned in the State of California. Humans can't be taxed for being humans in California, but if they can be made to believe they live in the State of California, they can be taught to believe they earn income in the State of California.

In the State of California, the Franchise Tax Board collects corporate income taxes from corporations and personal income taxes from those individuals who make and pay the tax on individual tax returns, which they file with the Franchise Tax Board. The Franchise Tax Board also acts through its employees as an income tax debt collector for those individuals who do not make tax returns. The Franchise Tax Board is not qualified to collect any sum not expressly Stated to be a tax on an individual tax return. The Franchise Tax Board consists of three disparate members none of whom have the power/duty to assess and collect a tax. State of California Franchise Tax Board employees, like employees everywhere, are without power or authority to compel anyone to do anything. The one exception to this rule is State employees under a dictatorship.

#### ***4 U.S.C. Section 110. Same; definitions***

*As used in sections 105-109 of this title -*

*(a) The term "person" shall have the meaning assigned to it in section 3797 of title 26.*

*(b) The term “sales or use tax” means any tax levied on, with respect to, or measured by, sales, receipts from sales, purchases, storage, or use of tangible personal property, except a tax with respect to which the provisions of section 104 of this title are applicable.*

*(c) The term “income tax” means any tax levied on, with respect to, or measured by, net income, gross income, or gross receipts.*

*(d) The term “State” includes any Territory or possession of the United States.*

*(e) The term “Federal area” means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency, of the United States; and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State.*

#### **16.4.3.2    State Sales Tax**

The income tax is defined in 4 U.S.C. §110(c) as a tax levied on or measured by net income, gross income, or gross receipts. As the sales tax is defined in 4 U.S.C. §110(b), the sales tax is just a special case an income tax. Essentially, the sales tax is a flat income tax imposed on the net income, gross income or gross receipts of a person retailing goods or services within the United States. The sales tax is a flat because it is not progressive. A sales tax is a government charge on the privilege of selling at retail in the United States. It is a tax on the retailer indirectly paid by the consumer in the cost of goods purchased. Applications for retail sellers permits expressly state that the applicant seeks a license for sales within the State of <\_\_\_>, one of the federated States of the United States Union. The misapplication of a sales tax in confederated States of the United States of America Union is primarily due to the ignorance of not knowing the difference between federated States of the United States Union and confederated States of the United States of America Union.

Requiring customers to have some kind of State license in order to make a purchase of alcoholic beverages is a violation of Article IV of the Articles of Confederation of November 15, 1777, which is still binding on the States. A “free inhabitant” requires no identification outside of the United States, the territory owned by or ceded to the United States of America.

State of California law imposes the sales tax on the gross receipts of the retailer making sales in this State of California or within the State of California. State of California laws on the Sales Tax is found in the Revenue and Taxation Code Sections 6001-6095. This following Section defines the meaning of the terms used to locate the place of the Sale.

**Section 6017 of California Revenue and Taxation Code:** *“In this State” or “in the State” means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.”*

The State of California is defined in Article 3 Section 1 of the State of California constitution:

**State of California Constitution, Article 3 Section 1:** *“The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.”*

The Constitution of September 17, 1787 erected a federated State within the exterior borders of each confederated States, and made “this Constitution” the supreme law of the United States. Because the

federated state of “State of California” overlaps the confederated state of “California,” a State of the United States of America Union, the “State of California” cannot be separated from the United States of America and must consists of the federal territory in California.

The idea behind the Marketplace Fairness Act is that it levels the competitive sales field between brick and mortar merchants and Internet sales operators since internet sales would be subject to a sales tax. The truth is it just provides more illicit tax revenue to incompetent State governments

The so-called “Fair Tax” is being touted as the replacement for the federal personal income tax, which would tax personal consumption within the United States. Consumption taxes are sales taxes, therefore, the “Fair Tax” would be a federal sales tax on retail sales made in the United States.



## ***Part 2 – Beyond the Basics***

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The material contained in part 2 goes beyond the material taught in Dr. Rivera's basic course on American Organic Laws and Government.

### **17 Citizenship in the United States of America Confederacy**

This section explains nationality and provides a short summary review of the two types of nationality and the three types of citizens in the United States of America Confederacy.

Citizenship has two components to it: a political component referred to nationality and a civil component referred to citizen. Since nationality is a more stable status, requiring more effort to change, a review of the two different types of nationalities in the Confederacy is first made before identifying and summarizing the various citizenships in the Confederacy.

#### **17.1 Nationals of the United States of America & State Nationals**

8 U.S.C. §1101(a)(21) defines a “national” as someone owes allegiance to a State. In general, through operation of the “law of the soil,” a common-law doctrine, those born in a State are nationals of the State in which they were born, owing allegiance to their State government. But nationality may also be acquired subsequently to birth, through naturalization only. Nationality is the political association with a State in which a person, called a national, owes his State allegiance and in exchange, the State provides consular protection to the national while the national is abroad.<sup>73,74,75</sup> No rights or obligations are automatically attached to the national status, other than allegiance to the State. A national with a domicile in the State of their nationality is also a citizen and has full citizenship. Citizen is the component of citizenship that is relevant when dealing with the internal political life of the State. A national with no domicile in the State of their nationality is a non-citizen national and has only partial citizenship. Nationality is the component of citizenship that is relevant when dealing with international issues, such as passports. Generally, all citizens are nationals but not all nationals are citizens. For further details on the general concepts of citizenship, see the next section titled “Citizenship General Concepts.” Treason, which is a violation of one's allegiance to their State, is a crime punishable by the State. Therefore, a State has what the U.S. Supreme Court called “political jurisdiction” over their nationals.<sup>76</sup>

The phrase “State national,” as used in this paragraph, is a reference to a national of a confederated State, but not a reference to a national of a federated State. As the confederated States of the United States of America Union are independent sovereign States they have their own state citizens and non-citizen state nationals.” In general, people born in any confederated State of the United States of America Union are “nationals” of their confederated State under 8 USC §1101(a)(21), owing allegiance to the state government. The original States delegated to the United States of America government all international

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<sup>73</sup> *Minor v. Happersett*, 88 U.S. 162 (1874)

<sup>74</sup> U.S. Department of State Foreign Affairs Manual Volume 7 (CT:CON-445; 02-22-2013), §1111(b)(1)

<sup>75</sup> *Black's Law Dictionary*, Sixth Edition, p. 1025, Nationality

<sup>76</sup> *Wong Kim Ark*, 169 U.S. 649 (1898) at p. 719



powers. For external international issues, the several confederated States of the United States of America Union became a single strong political entity, the United States of America Confederacy. Nationality is the component of citizenship that is relevant when dealing with international issues, such as passports. Therefore, any State national would have to also be a national of the United States of America government, known as “nationals of the United States” under 8 USC §1101(a)(22). State nationals have dual allegiance, they owe allegiance primarily to their State government and secondarily to the United States of America government. Their “national of the United States” status is derived from being a “national” of their State government and the fact that their State government is a party to the United States of America common-defense alliance. But between the two national statuses, only the Confederacy level of nationality is recognized internationally. Therefore, though the “national of the United States” status is derived from being a State national, the people’s State level of nationality is a moot status for international purposes. The more important status of a State national is their Confederacy nationality known as “national of the United States” under 8 USC §1101(a)(22).

From an examination of 8 U.S.C. §1101(a)(22), it is clear that all “citizens of the United States” are “nationals of the United States”, but not all “nationals of the United States” are “citizens of the United States”. Therefore those who acquired “citizen of the United States” citizenship, either at birth or subsequent to birth through naturalization, simultaneously became a “national of the United States.” “Nationals of the United States” has two sources of acquisition: birth in a confederated State, and the acquisition of “citizen of the United States” citizenship. All those persons who have acquired the “national of the United States” status by either of the two above mentioned means, and have not expatriated since acquiring their national status, are “nationals of the United States” under 8 USC §1101(a)(22). Treason against the United States of America government is defined in Article III Section 3 Clause 1 of the Constitution of September 17, 1787, and the Confederation Congress is granted the power to declare the punishment for treason in Article II Section 3 Clause 2 of the document.

“Nationals of the United States” owe allegiance to the United States of America government, where the “United States of America” government is often abbreviated to the “United States of America” or the “United States.” “United States of America passports” are issued by the United States of America government to only “nationals of the United States.” The State governments do not issue passports. All United States of America passports indicate under the holder’s name that the holder is a national of the United States of America.

22 USC § 212 indicates that the only requirement to receive a United States of America passport is to owe allegiance to the “United States,” and specifically indicates that citizenship is not required. The term “United States,” as used in 22 USC §212 is political, as allegiance can be owed to a government but not to a district/territory. The State governments do not issue passports. So the full context of the term “United States,” as used 22 USC §212, must be singular political and the term must mean the United States of America government, in order to be consistent with the Constitution of September 17, 1787. Those who owe allegiance to the United States of America government are nationals of the United States of America and qualify to receive a United States of America passport. The regulations for 22 USC §212 appear at 22 CFR §51.2 and 22 CFR §51.2(a) indicates that passports may be issued only to “U.S. nationals.” There is a statutory definition for “nationals of the United States” but there is no statutory defined “U.S. national.” This author alleges the 22 CFR §51.2(a) is intended to obfuscate citizenship in

United States of America, much in line with the DS-11 passport application form which indicates that the application is for a “U.S. passport.” There is no such thing as a “U.S. Passport.” The proper interpretation of the term “U.S. national,” as used in 22 CFR §51.2(a) is a “national of the United States” under 8 USC §1101(a)(22).

**8 USC §1101(a)(21)** “The term “**national**” means a person owing permanent allegiance to a State.”

**8 U.S.C. §1101(a)(22)** The term “**national of the United States**” means

(A) a citizen of the United States, or

(B ) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

**22 USC §212** No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States.

**22 CFR § 51.2** Passport issued to nationals only.

a) A passport may be issued only to a U.S. national.

b) Unless authorized by the Department, no person may bear more than one valid passport of the same type.

## **17.2 The Specific Citizenships in the U.S.A. Confederacy**

Now that nationality has been explained, we are ready to identify the specific types of citizenships in the United States of America Confederacy.

### **17.2.1 Non-Citizen Nationals of the United States**

Those born in American Samoa, an outlying possession of the United States, are expressly described as being “non-citizen nationals of the United States” at birth under 8 USC §1408. In general, “non-citizen nationals of the United States,” under 8 USC §1101(a)(22)(B), are any people who were born in a confederated State of the United States of America Union or who had acquired “citizen of the United States” citizenship, but do not currently maintain a domicile in the territorial jurisdiction of United States of America. The “non-citizens nationals of the United States” owe allegiance to the United States of America government but are not subject to the federal laws of the United States of America since not domiciled in the territorial jurisdiction of the United States of America. The territorial jurisdiction of the United States of America is the territory owned by or ceded to the United States of America, and consists of the federated States of the United States Union, the District of Columbia and the U.S. Territories (U.S. Virgin Islands, Puerto Rico, Guam, Northern Marina Islands, and America Samoa). Most “non-citizens nationals of the United States” are also “nationals” of a confederated State through birth in the State. A “non-citizen national of the United States,” is simultaneously a citizen of a confederated States if they are also a “national” of a confederated State and maintain a domicile within the exterior borders of their State, but not in the United States.

For those Americans seeking freedom, “non-citizen national of the United States” is the more desired status to possess, relative to the United States of America government.

**8 U.S.C. §1408** Unless otherwise provided in section 1401 of this title, the following shall be **nationals, but not citizens, of the United States** at birth:

(1) A person born in an **outlying possession of the United States** on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person; . . .

**8 U.S.C. §1101(a)(29)** The term "outlying possessions of the United States" means American Samoa and Swains Island.

## **17.2.2 Citizens of a Confederated State**

A citizen of a confederated State of the United States of America Union is a person who was born within the exterior borders of the confederated State and currently maintains a domicile therein. State citizens are, per 8 USC §1101(a)(21), "nationals" of the State government of their confederated State, owing allegiance to that State government. But they are also nationals of the United States of America government, owing it allegiance as well.

A citizen of a confederated States is not also a "citizen of the United States" if their domicile within the exterior borders of their confederated State is not on territory owned by the United States of America.<sup>77</sup> Those citizens of a confederated State who are domiciled within the United States are described in the next two sections.

Citizens of a confederated State who are domiciled within their State but without the United States are referred to as "free citizens" in Article 4 of the Articles of Confederation. The State governments derived their power over the "free citizens" from the people themselves and can exercise no power against the free citizens that the people themselves did not possess. Since the confederated States were populated by people who were create equally and endowed by their Creator with many unalienable rights, the people did not possess any power to tax or regulate the unalienable rights of other free people that they could delegate to their State government. Prior to the ratification of the Constitution of September 17, 1787, the free citizens were essentially subject to only their State laws that required them to conduct themselves, or to use their property, in such a manner as to not unnecessarily injure another.<sup>78</sup> The many

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<sup>77</sup> **Crosse v. Board of Supervisors of Elections of Baltimore City, 221 A.2d. 431 (1966)** - "Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state. *United States v. Cruikshank*, 92 U.S. 542, 549 (1875); *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36, 73-74 (1873); and see *Short v. State*, 80 Md. 392, 401-02, 31 Atl. 322 (1895). See also *Spear, State Citizenship*, 16 Albany L.J. 24 (1877)."

<sup>78</sup> **Munn. V. Illinois, 94 U.S. 113 (1876)** - "When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. "A Body politic", as aptly defined in the preamble of the Constitution of Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusive private. *Thorpe v. R. & B. Railroad Co.*, 27 Vt. 143; but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government, and has found expression in the maxim sic utere tuo ut alienum non laedes. From this source come the police powers, which, as was said by Mr. Chief Justice Taney in *License Cases*, 5 How. 583, "are nothing more or less than the powers of government inherent in every sovereignty, . . . that is to say, . . . the power to govern men and things."

unalienable rights of the free citizens could not be infringed upon by the State, for those rights were purely private.<sup>79</sup>

The Declaration of Independence established that the only type of government possible in America is one which governs by the consent of the governed. Since the Bill of Rights of 1689, the “consent of the governed” has been given by direct representation of the people whom are governed in the legislative assembly doing the governing. Direct representation is acquired via the right to vote. As early as the 1789 ratification of the Constitution of September 17, 1787, and certainly by the ratification of the 14<sup>th</sup> Amendment, all State Constitutions were amended to allow only the “citizens of the United States” residing within the exterior borders of their confederated State the right to vote for State government officers. State governments were republican in form, but only relative to their federated State, not relative to their confederated State. Much like the “free inhabitants,” the citizens of the confederated States, did not have the right to vote and hence, did not consent to be governed by the State. Instead of being governed by State laws, the “citizens of the confederated state” and the “free inhabitants” are now both governed only by God’s Laws, aka English common-law. Citizens of a confederated State may not have their private unalienable rights regulated since they do not consent to be governed and also because that is not one of the political powers inherent in the people of the confederated State.

Prior to ratification of the Constitution of September 17, 1787, the phrase “citizen of the United States” was a reference to a citizen of a confederated State that is described above. At that time, there was no federated State overlaid on top of each of the confederated State. So a citizen of a confederated State who inhabited the confederated State of his citizenship was never subject to federal laws of the United States of America. After the ratification of the Constitution of September 17, 1787, the meaning of the phrase “citizen of the United States” changed to mean: a citizen of the United States of America government, a citizenry who is domiciled in the territorial jurisdiction of the United States of America, the territory owned by or ceded to the United States of America, and therefore subject to the federal laws of the United States of America.

Within the exterior borders each confederated State, there are two classes of citizens:

- 1) “Citizens of the confederated State,” which is described in this section.
- 2) “Citizens of the United States”/“citizens of the federated State,” which is described in the next two sections.

### **17.2.3 Citizens of a Federated State**

All citizens of a federated State are also citizens of the United States but not all citizens of the United States are also citizens of a federated State. A detailed analysis on “citizens of a federated State” is found in the section concerning the 14<sup>th</sup> Amendment. Most people erroneously conflate “citizens of a federated State” with “citizens of a confederated State.” Some of the ways in which a citizen of a federated State is distinguished from a citizen of a confederated State are:

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<sup>79</sup> Ibid.

- 1) All citizens of a federated State are always also a citizen of the United States. But a citizen of a confederated State is also a citizen of the United States only if they are domiciled within the exterior borders of their confederated State on territory owned by the United States of America.
- 2) Citizens of a federated State have allegiance only to the United States of America government. Citizens of a confederated State have allegiance to both their State government and the United States of America government.
- 3) Citizens of a federated State can become a citizen of some other federated State simple by moving their domicile to the new State. If State naturalization is still possible, a citizen of a confederated States would have to take an oath of allegiance to the new State government in order to naturalize to the new confederated State.
- 4) The State governments are republican in form only relative to their federated State, but not relative to their confederated State. Current State Constitutions give the right of suffrage to only citizens of the United States domiciled with the exterior borders of the confederated State, which citizens may also be citizens the confederated State but are always also a citizen of the federated State erected therein. A citizen of a confederated State who is not also a citizen of the United States may not vote for State government officers. Therefore, as a republican form of government, citizens of the United State vote for State government officers as citizens of the federated State in which they are domiciled, not as citizens of the confederated State.

In the United States of America Confederacy, we have a republican form of government for the United States Union and for the federated States of the United States Union. Per *Gardina v. Board of Registrar*, there are two classes of citizens for our republican form of government, one of the United States and one of the State. The framers of the 14<sup>th</sup> Amendment intended that the territorial scope of the “United States” to be limited to the federated States. Therefore, those born in a federated States were citizens of both the “United States” and of the federated State in which they were domiciled. Since the District of Columbia is not a federated State, those born in the District of Columbia would have to acquire their “citizen of the United States” status via the statutes. Those born in the District of Columbia were “citizens of the United States” but not of a federated State.

The United States of America Union and the confederated States of that Union do not have a republican form of government but rather, have a self-governing form of government under English common-law. The citizens from the United States of America Union consist solely of the citizens of the confederated States, which citizens owe allegiance to both the United States of America government and the State government.

**Gardina v. Board of Registrars of Jefferson County**, 160 Ala. 155; 48 So. 788 (1909) - *“There are, then, under our republican form of government, two classes of citizens, one of the United States and one of the state. One class of citizenship may exist in a person, without the other, as in the case of a resident of the District of Columbia; but both classes usually exist in the same person.”*

#### **17.2.4 Citizens of the United States**

Upon the ratification of the Constitution of September 17, 1787, the meaning of “citizen of the United States” was changed to mean a citizen of the United States of America government, owing allegiance to that government. Such a “citizen of the United States” is domiciled within the territorial jurisdiction of the United States of America, the territory owned by or ceded to the United States of America, which

consists of the United States Union of federated States, the District of Columbia and the U.S. Territories. A “citizen of the United States” is subject to the federal laws of the United States of America since domiciled within the territorial jurisdiction of the United States of America. “Citizens of the United States” are “nationals of the United States” under 8 USC §1101(a)(22)(A). A “citizen of the United States” remains a “citizen of the United States,” subject to the laws of the United States of America, as long he maintains his domicile within the territorial jurisdiction of the United States of America. In the event that a former “citizen of the United States” no longer maintains a domicile within the territorial jurisdiction of the United States of America, such a former citizen becomes a “non-citizen national of the United States” under 8 USC §1101(a)(22)(B).

The United States of America government derives its power over people from its proprietary/military power. Therefore, the United States of America government may exercise a power over people on its proprietary property that the people themselves do not possess, including the power to tax the people. Unlike citizens of a confederated State, citizens of the United States are heavily taxed and regulated.

The present day “citizen of the United States” has its origin in the Northwest Ordinance and was referred to in that document as citizens “*of any other States that may be admitted into the confederacy.*”

There are a few significant issues concerning the “citizen of the United States” citizenship that will be addressed below.

#### **17.2.4.1 Constitutional versus Statutory “Citizens of the United States”**

Article I Section 8 Clause 4 expressly permits the Congress of the United States to enact a uniform rule of naturalization throughout the United States. The current uniform rule of naturalization is known as the “Immigration and Nationality Act” and was enacted on June 27, 1952 as 66 Stat. 165, Chapter 477. According to the notes under 8 U.S.C. §1101, Chapter 12 of Title 8 of the U.S. Code is a codification of the 1952 Immigration and Nationality Act. Chapter 12 of Title 8 of the U.S. Code covers Sections 1101 through 1537 of that Title, including Sections 1401 and 1421. 8 USC §1421 contains the rules to acquire the “citizen of the United States” status through naturalization and 8 USC §1401 provides the sources for acquiring the “citizen of the United States” status at birth.

The “citizens of the United States” citizenship may be acquired through either the sources identified in the 14<sup>th</sup> Amendment or the sources identified statutorily at 8 USC §1401. Regardless of the source used to acquire the citizenship, all “citizens of the United States” owe allegiance to the United States of America, are domiciled within territorial jurisdiction of the United States of America and therefore, are subject to the federal laws of the United States of America. However, there are some subtle differences in a “citizens of the United States” citizenship which is acquired via a constitutional source versus a statutory source. This section will review those differences.

##### **17.2.4.1.1 Sources of Citizenship**

Two sources for acquiring the “citizens of the United States” citizenship are identified in the 14<sup>th</sup> Amendment: birth in the United States and naturalization subsequently to birth. This section considers the “at birth” sources only.



The 14<sup>th</sup> Amendment includes only one “at birth” source of citizenship: “*born . . . in the United States, and subject to the jurisdiction thereof,*” while 8 USC §1401 includes a very similar looking source plus seven other additional “at birth” sources. Most of the additional sources contained in 8 USC §1401 have to do with birth outside of the “United States” of parents, either one or both, of whom are a citizen of the United States who have met a certain physical presence in the United State requisite. Clearly the seven additional sources of 8 USC §1401, contained in sub-sections (b) through (h), embrace persons not embraced by the 14<sup>th</sup> Amendment. The source contained at 8 USC §1401(a), which looks very similar to the 14<sup>th</sup> Amendment, needs further analysis before we can determine the persons embraced by it.

**14<sup>th</sup> Amendment, Section 1** – “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. . . .”

U.S. Code > Title 8 > Chapter 12 > Subchapter III > Part I > § 1401

**8 U.S. Code § 1401** - Nationals and citizens of United States at birth

The following shall be **nationals and citizens of the United States** at birth:

- (a) a person born in the United States, and subject to the jurisdiction thereof;
- (b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: Provided, that the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;
- (c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;
- (d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States; . . .

#### **17.2.4.1.2 Meanings of the Term “Person”**

The wording of the “at birth” source of citizenship contained in the 14<sup>th</sup> Amendment is almost identical with the wording contained in 8 USC §1401(a) source of citizenship:

- **14<sup>th</sup> Amendment:** “*All persons born in the United States . . . , and subject to the jurisdiction thereof*”
- **8 USC §1401(a):** “*a person born in the United States, and subject to the jurisdiction thereof*”

Though the wording for these two sources of citizenship are nearly identical, the set of persons embraced by the 8 USC §1401(a) source is different from that embraced by the 14<sup>th</sup> Amendment source due to the terms of “persons” and “United States” having different meanings in the two different contexts. This section will review the constitutional and statutory meanings of the term “person” that pertain to the 14<sup>th</sup> Amendment and 8 USC §1401(a) respectively.

##### **17.2.4.1.2.1 Statutory Meaning of the Term “Person”**

8 USC §1401 is found in Subchapter III of Chapter 12 of Title 8 of the U.S. Code. The definition section pertaining to Chapter 12 of Title 8 is Section 8 USC §1101. There is no definition for the term “person” found in 8 USC §1101 that pertains to Subchapter III of Chapter 12 of Title 8. Therefore the definition of “person” found in 1 USC §1 must be used. 1 USC §8(a) contains the definition of “individual” that should be used when interpreting the definition of “person” found in 1 USC §1. After examining those

sections of code, it becomes clear that the term “person,” as used in 8 USC §1401(a), can mean either an artificial person, such as a corporation, or a human being. Under 8 USC §1401(a), “citizens of the United States” includes natural persons and corporations.

**1 USC §1** In determining the meaning of any Act of Congress, unless the context indicates otherwise— . . .  
the words “**person**” and “**whoever**” include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals;

**1 USC §8(a)** In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words “person”, “human being”, “child”, and “**individual**”, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

**19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)** – “A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only.”

#### **17.2.4.1.2.2 Constitutional Meaning of the Term “Person”**

According to the Annotated Fourteenth Amendment published by the Congressional Research Services, the term “persons,” as used in the 14<sup>th</sup> Amendment means human beings only and excludes artificial persons, such as corporations. The text asserting that Fourteenth Amendment persons are only human beings, along with the accompanying footnote, follows below:

**Annotated Fourteenth Amendment, Congressional Research Service** - “*Citizens of the United States within the meaning of this Amendment must be natural and not artificial persons; a corporate body is not a citizen of the United States.*<sup>14</sup>

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*14 Insurance Co. v. New Orleans, 13 Fed.Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States, corporations accordingly have been declared unable to “claim the protection of the clause of the Fourteenth Amendment which secure the privileges and immunities of citizens of the United States against abridgement of impairment by the law of a State.” Orient Ins. Co. v Daggs, 172 U.S. 557, 561 (1869). This conclusion was in harmony with the earlier holding in Paul v Virginia, 75 U.S. (8 Wall.) 168 (1869), to the effect that corporations were not within the scope of the privileges and immunities clause of the state citizenship set out in Article IV, Sect. 2. See also Selover, Bates & Co. v. Walsh, 226 U.S. 112, 126 (1912) ; Berea College v. Kentucky, 211 U.S. 45 (1908) ; Liberty Warehouse Co. v. Tobacco Growers, 276 U.S. 71, 89 (1928) ; Grosjean v. American Press Co., 297 U.S. 233, 244 (1936).”*

#### **17.2.4.1.3 Meaning of the Term “United States”**

The term “United States,” in a geographical sense, is used in both the 14<sup>th</sup> Amendment and 8 USC §1401(a) to determine who acquires the “citizen of the United States” citizenship at birth. This section will review the constitutional and statutory meanings of the term “United States” that pertain to the 14<sup>th</sup> Amendment and 8 USC §1401(a) respectively.

#### **17.2.4.1.3.1 Constitutional Geographical Scope of the Term “United States”**

The geographical meaning of the term “United States,” within the context of the Constitution of September 17, 1787 and therefore, the 14<sup>th</sup> Amendment, can be found in Article I Section 8 Clause 17. Article I Section 8 Clause 17 of the Constitution reveals that the geographical scope of the term “United States” is the United States Union created by the Constitution, which Union consists of the collective federated States erected within the exterior borders of the confederated States. Each of the federated States consists of the territory located within the exterior border of the confederated State in which it was erected that is owned by the United States of America.

The constitutional geographical meaning described above for the term “United States” is confirmed in the US Supreme Court case of *Valmonte v. I.N.S.*, 136 F.3d. 914 (C.A.2, 1998). *Valmonte v. I.N.S.* is an especially important case because the case clarifies that within the Constitution, the term “United States” is a reference to the United States Union of federated States created under the Constitution of September 17, 1787, but not a reference to the United States of America Union of confederated States created under the Articles of Confederation. For detail of that case, see the section titled “Further Clarification of the Meaning of Singular Geographical United States.” Also, *Pannill v. Roanoke* confirms that within the language of the Constitution of September 17, 1787, the territorial Scope of the term “United States” is limited to the United States Union of federated States, but excludes the District of Columbia and the U.S. Territories. If a person is not a citizen of one of the federated States, then under the Constitution of September 17, 1787, that person is not a “citizen of the United States;” but they may be a “citizen of the United States” under 8 USC §1401.

***Pannill v. Roanoke, 252 F. 910, 914 – “ . . . citizens of the District of Columbia were not granted the privilege of litigating in the federal courts on the ground of diversity of citizenship. Possible no better reason for this fact exists than such citizens were not thought of when the judiciary article [III] of the federal Constitution was drafted. . . . citizens of the United States . . . were also not thought of; but in any event a citizen of the United States, who is not a citizen of any state, is not within the language of the Constitution.”***

#### **17.2.4.1.3.2 Statutory Geographical Scope of the Term “United States”**

The geographical definition for the term “United States” that pertains to all of Chapter 12 of Title 8 of the U.S. Code, including 8 USC §1401 is found in 8 USC §1101(a)(38).

**8 U.S.C. §1101(a)(38)** The term “United States”, except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

The 8 USC §1101(a)(38) definition of “United States” contains the non-specific term of “continental United States” that needs to be resolved before we can get a clear picture of “United States.” But the term “continental United States” is not defined anywhere in Chapter 12 of Title 8. However, under “Authorities (CFR)” notes for 8 U.S.C. §1101, there is a list of the parts within the CFR which provide the rulemaking authorities for 8 U.S.C. §1101. Contained in the list of rulemaking authorities for 8 USC §1101 is 8 CFR Part 215, and found at 8 CFR §215.1(f) is the definition for “continental United States” that should be used when interpreting the meaning of “United States,” as found at 8 U.S.C. §1101(a)(38).

**8 C.F.R. §215.1(f)** The term **continental United States** means the District of Columbia and the several States, except Alaska and Hawaii.

The 8 CFR §215.1(f) definition of “continental United States” contains the non-specific term of the “several States” that needs to be resolved before we can get a clear picture of “continental United States.” Under the “Authorities (U.S. Code)” notes for 8 CFR §215.1, the list of U.S. Code sections which provide rulemaking authority for 8 CFR §215.1 is identified, which list includes 8 USC §1101. Under 8 USC §1101(a)(36), is the definition of “State” that should be used to interpret the definition of “continental United States” found at 8 CFR §215.1(f). Per the rules of construction found at 1 USC §1, “*words importing the singular include and apply to several persons, parties, or things,*” and vice-versa.

**8 USC §1101(a)(36)** *The term “State” includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.*

**1 USC §1** *In determining the meaning of any Act of Congress, unless the context indicates otherwise—  
words importing the singular include and apply to several persons, parties, or things;  
words importing the plural include the singular;*

Therefore, it would be appropriate to substitute the several listed specific States under 8 USC §1101(a)(36) for the phrase “several States” found in 8 CFR §215.1(f). After making the substitution and removing the duplicated term of “District of Columbia,” we get:

**“Continental United States” (derived)** means District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United State, and the Commonwealth of the Northern Mariana Islands.

Substituting the above derived meaning of the term “Continental United States” into 8 USC §1101(a)(38) and removing the duplicated terms of “Puerto Rico”, “Guam”, and “U.S. Virgin Islands” we get:

**“United States” (derived)** means the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands., Alaska, and Hawaii.

The above derived meaning for the term “United States” is what one would have expected in 1952, when Title 8 was codified. Since Title 8 was codified, both Alaska and Hawaii joined to perpetual Union in 1959. Though American Samoa has been a territory of the United States since 1899, American Samoa does not appear in the expanded definition of United States because for citizenship purposes, American Samoa is an “outlying possession of the United States,” which are treated separately under 8 USC §1408. Under 8 USC §1408, those born in an “outlying possession of the United States” are “non-citizens nationals of the United States.”

#### **17.2.4.1.4 Conclusion – Constitutional versus Statutory “citizens of the United States”**

There are no common persons embraced by both the 14<sup>th</sup> Amendment and 8 USC §1401.

Under the 14<sup>th</sup> Amendment, all **people** born or naturalized in the United States, subject to the jurisdiction of the United States of America government, are “citizens of the United States” and of the federated State of the United States Union in which they are domiciled; where the term “United States” means the United States Union of federated States, which States were erected within the exterior borders of the confederated States and consist exclusively of territory located therein that is owned by the United States of America.

8 USC §1401 cover all other “citizens of the United States” which are not embraced by the 14<sup>th</sup> Amendment, including:

- 1) Persons, artificial or natural, born in the District of Columbia
- 2) Persons born in one of the U.S. Territories, except for the territory of American Samoa.
- 3) Persons born overseas of parents who are citizens of the United States.
- 4) Artificial persons, such as corporations, which are incorporated/created in the District of Columbia.

Despite of the above mentioned differences between statutory and constitutional “citizens of the United States,” all “citizens of the United States” are domiciled within the territorial jurisdiction of the United States of America and therefore, are subject to the laws of the United States of America.

#### **17.2.4.2 Very Few American People Are Citizens of the United States**

Per Article I Section 8 Clause 17 of the Constitution of September 17, 1787, the federated States of the United States Union, States which were erected within the exterior borders the confederated States, are not inhabited by the general public. Those federated States are for the erection of forts, magazines, arsenals, dock-yards, and other useful building. The only place in the territorial jurisdiction of the United States America where it is possible to establish a domicile is the District of Columbia and any one of the five inhabited territories of the United States (Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands).

An American, which is a human being who is a “national of the United States” under 8 USC §1101(a)(22), must have a domicile within the territorial jurisdiction of the United States of America in order to be a “citizen of the United States.” To establish a domicile within the territorial jurisdiction of United States of America, a person would have to live in some specific locality of that jurisdiction at some point in time, with the concurrent intention of making that locality the person’s permanent home.<sup>80</sup> Very few Americans were born in, or have lived in the District of Columbia or in one of the U.S. Territories at some point in time with the concurrent intention of making the locality their permanent home. Therefore, very few Americans are “citizens of the United States.”

#### **17.2.4.3 Essentially All Citizens of the United States are Governmental Artificial Persons**

As shown in the section concerning Franchises, a public office is created in the Government of the United States whenever someone submits a SSA SS-5 Form to request a SSN. These public offices are all

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<sup>80</sup> **Title 28 Corpus Juris Secundum, Domicile, Section 11** – “Ultimate facts necessary to sustain a conclusion of domicile are physical presence in the state at some time and a concurrent intention to make the state one's home.”

created as a separate legal artificial person which is a part of the Government of the United States. Since the Government of the United States is a citizen of the United States, then each public office created as a part of the government is also a citizen of the United States. Currently most American people have submitted a SSA SS-5 Form to request a SSN but very few Americans people are themselves citizens of the United States. Also, a SSN may be issued to only citizens of the United States or to resident aliens. From the above facts, we can conclude the following:

- 1) Most “citizens of the United States” are artificial persons and public offices within the Government of the United States.
- 2) When a SSN is assigned, it is assigned to the public office created in response to the receipt of a SSA SS-5 Form, not to the person who submitted the form and later fills the office as a public officer. The created public office is always a “citizen of the United States,” but the submitter of the SSA SS-5 Form seldom is.

#### **17.2.4.4 Erroneous Interpretations of 14<sup>th</sup> Amendment “Citizens of the United States”**

Some people in the “truth movement” have erroneously interpreted the 14<sup>th</sup> Amendment “citizens of the United States” in the following ways:

- 1) They have erroneously interpreted 14<sup>th</sup> Amendment “citizens of the United States” as citizens who are not domiciled on territory owned by the United States of America.
- 2) They have erroneously interpreted 14<sup>th</sup> Amendment “citizens of the United States” as a political status only, not involving a civil association. In other words, they have erroneously interpreted a 14<sup>th</sup> Amendment “citizens of the United States” as a “non-citizen national of the United States” under 8 USC §1101(a)(22)(B)

This section offers proof of why the above identified misinterpretations are in error.

##### **17.2.4.4.1 Erroneous Domicile Interpretation**

The U.S. Supreme Court case of *Valmonte v. I.N.S.*, 136 F.3d. 914 (C.A.2, 1998), is cited as the strongest proof for the erroneous interpretation that “14<sup>th</sup> Amendment “citizens of the United States” are not domiciled on territory owned by the United States of America.” It appears that this incorrect interpretation is due to conflating the United States Union of federated States with the United States of America Union of confederated States. The herein before section titled “Further Clarification of the Meaning of Singular Geographical United States” reviews the *Valmonte v. I.N.S.* case and points out the evidence in that case which prove that the case is about the United States Union of federated States created under the Constitution of September 17, 1787, but not about the United States of America Union of confederated States created under the Articles of Confederation. Those federated States were created under Article I Section 8 Clause 17 and united under Article I Section 2 Clause 3. Each of those federated States of the United States Union consists of the collective “all Places” purchased within the exterior borders of a confederated State by the consent of the State’s legislature. The power to exercise exclusive legislation over the United States Union and the Seat of Government of the United States was granted under Article I Section 8 Clause 17 and vested in the Congress of the United States under Article I Section 1. Concurrent territorial jurisdiction over the federated States was conferred to each of the confederated States under Article 4 of the Northwest Ordinance. The United States Union and the



federated States of the United States Union have a republican form of government in which the “citizens of the United States”/“citizens of a federated State” vote for representatives to represent them in the legislative process. Those voters consent to be governed via their right to vote, are domiciles on federal land and therefore, are subject to the federal and state laws.

The confederated States of the United States of America do not have a republican form of government; but rather have a form of self-governing under the English common-law. “Citizens of a confederated State” do not have the right to vote and therefore, do not consent to be governed by their State. Also, those citizens are not domiciled on federal land. Therefore “citizens of a confederated State” are not subject to federal or State law. Instead, “citizens of a confederated State” are governed by God’s Law, aka English common-law.

The 26<sup>th</sup> Amendment prohibited the United States of America government or any of the State governments from denying the right to vote of “citizens of the United States,” who are eighteen years of age or older, based on age. A person must be of the age of majority in order to vote. In the confederated States of the United States of America Union, where English common-law is the law, the age of majority is 21 years. There is no English common law in the territory owned by or ceded to the United States of America. In a federated State of the United States Union, the State Constitution and the laws passed pursuant to that State Constitution is the law. But, the Constitution of September 17, 1787 is the supreme Law of “the Land,” where “the Land” is the United States Union. The territory owed by or ceded to the United States of America is the only place in which written law could make 18 years of age the age of majority.

The laws of the jurisdiction in which a person is domiciled determine the age of majority for that person. Therefore, the 26<sup>th</sup> Amendment is proof that all “Citizen of the United States” are domiciled on territory owned by or ceded to the United States of America, which territory is the only territory in which it would be possible to vote at the age of 18 years.

#### **17.2.4.4.2 Erroneous Civil Status Interpretation**

Some people have misinterpreted 14<sup>th</sup> Amendment “citizens of the United States” to be a political status only, not involving a civil association. In other words, a 14<sup>th</sup> Amendment “citizens of the United States” is a “non-citizen national of the United States” under 8 USC §1101(a)(22)(B). It appears that the above mentioned erroneous conclusion stems primarily from a misinterpretation of the following sentence taken from page 724 of the U.S. Supreme Court case of Wong Kim Ark:

*“The persons declared to be citizens are “all persons born or naturalized in the United States, and subject to the jurisdiction thereof.” The evident meaning of these last words is not merely subject in some respect or degree to the jurisdiction of the United States, but **completely subject to their political jurisdiction**, and owing them direct and immediate allegiance.”*

The logic in the misinterpretation is: If a 14<sup>th</sup> Amendment “citizen of the United States” is completely subject to their political jurisdiction, then that 14<sup>th</sup> Amendment “citizen of the United States” must not be subject to their legislative jurisdiction.

The above quoted sentence was part of the minority dissenting opinion in Wang Kim Ark contained on page 719, which opinion argued that all children born in the United States of aliens were excluded from acquiring "citizen of the United States" citizenship at birth because that could result in such a child acquiring dual nationalities, which has no place in our laws. On page 721 of Wang Kim Ark, the minority dissenting opinion expressed that: *to be subject to the jurisdiction of the United States means not to owe allegiance to any foreign State*. Also, on page 719 of Wang Kim Ark, the minority dissenting opinion clarified that: persons born in the United States are undoubtedly subject to the territorial jurisdiction of the United States.

From the above, we know that 14<sup>th</sup> Amendment "citizen of the United States" is a political AND CIVIL status. As a political and civil Status, 14 Amendment "citizen of the United States" must be "nationals and citizens of the United States" per 8 USC §1101(a)(22)(A). The only territorial jurisdiction of the United State is the territory that is owned by or ceded to the United States of America. Therefore, this paragraph also proves that a 14<sup>th</sup> Amendment "citizen of the United States" must be domiciled on territory owned by or ceded to the United States of America. Only those Americans who are domiciled on territory owned by or ceded to the United States of America are subject to the laws of the United States of America.

**Wong Kim Ark, 169 U.S. 649 (1898), at 724** – *"This section contemplates two sources of citizenship, and two sources only: birth and naturalization. The persons declared to be citizens are "all persons born or naturalized in the United States, and subject to the jurisdiction thereof." The evident meaning of these last words is not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their political jurisdiction, and owing them direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do to the time of naturalization in the other. Persons not this subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired.*

*To be "completely subject" to the political jurisdiction of the United States is to be in no respect or degree subject to the political jurisdiction of any other government."*

**Wong Kim Ark, 169 U.S. 649 (1898), at 721** – *"Two months after the statute was enacted, on June 16, 1866, the Fourteenth Amendment was proposed, and declared ratified July 28, 1868. The first clause of the first section reads: All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. The act was passed and the amendment proposed by the same Congress, and it is not open to reasonable doubt that the words "subject to the jurisdiction thereof" in the amendment were used as synonymous with the words "and not subject to any foreign power" of the act. The jurists and statesmen referred to in the majority opinion, notably Senators Trumbull and Reverdy Johnson, concurred in that view, Senator Trumbull saying: "What do we mean by 'subject to the jurisdiction of the United States?' Not owing allegiance to anybody else; that is what it means." And Senator Johnson: Now, all that this amendment provides is that all persons born within the United States and not subject to some foreign power -- for that no doubt is the meaning of the committee who have brought the matter before us -- shall be considered as citizens of the United States."*

**Wong Kim Ark, 169 U.S. 649 (1898), at 719** – *"The Civil Rights Act became a law April 9, 1866 (14 Stat. 27, c. 31), and provided: That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States.*

*And this was reenacted June 22, 1874, in the Revised Statutes, section 1992. The words "not subject to any foreign power" do not, in themselves, refer to mere territorial jurisdiction, **for the persons referred to are persons born in the United States. All such persons are undoubtedly subject to the territorial jurisdiction of the United States,** and yet the act concedes that nevertheless they may be subject to the political jurisdiction of a foreign government. In other words, by the terms of the act, all persons born in the United States, and not owing allegiance to any foreign power, are citizens. The allegiance of children so born is not the local allegiance arising from their parents' merely being domiciled in the country, and it is single and not double, allegiance. **Indeed, double allegiance, in the sense of double nationality, has no place in our law,** and the existence of a man without a country is not recognized."*

## 18 **Citizenship General Concepts**

This section provides a general overview of the concepts of citizenship and may be helpful in understanding the prior section which describe the various citizenships in the United States of America Confederacy.

A person's citizenship describes the person's national and citizen/domicile statuses, identifying the State and the legal jurisdiction, respectively, that the person is associated with. A person can have either partial or full citizenship. A person with partial-citizenship is a person who is a national of a State and who is domiciled in a legal jurisdiction that is located outside of the State of their nationality. A person with full-citizenship is a person who is a national of a State and who is domiciled in a legal jurisdiction within the State of their nationality.

Nationality is a necessary but not sufficient condition to exercise full political rights within a State or other polity.<sup>81</sup> Full-citizenship is required to exercise the full political rights in a person's State, including the political right of voting.<sup>82</sup> Nationality is a matter of international dealings while citizen is focused on the internal political life of the State.<sup>83</sup> It is said that: "*Everyone born in the civilized world is born with both a political status and civil status.*"<sup>84</sup> However, for the previous quoted text to be true in the United States of America Confederacy, a possible civil status would have to include the "free Inhabitant" status described under Article IV of the Articles of Confederation.

### 18.1 **Political Status - Nationality**

A person's political status is their nationality.<sup>85</sup> Nationality is the political association with a State in which a person, called a national, owes his State allegiance and in exchange, the State provides consular

<sup>81</sup> Vonk, Olivier (March 19, 2012). *Dual Nationality in the European Union: A Study on Changing Norms in Public and Private International Law and in the Municipal Laws of Four EU Member States*. Martinus Nijhoff Publishers. pp. 19–20. [ISBN 90-04-22720-2](#), quoted in Wikipedia under "nationality."

<sup>82</sup> Kadelbach, Stefan (2007). "Part V: Citizenship Rights in Europe". In Ehlers, Dirk. [European Fundamental Rights and Freedoms](#). Berlin: De Gruyter Recht. pp. 547–548. [ISBN 9783110971965](#), quoted in Wikipedia under "nationality."

<sup>83</sup> Turner, Bryan S; Isin, Engin F. [Handbook of Citizenship Studies](#). SAGE; 2003-01-29. [ISBN 9780761968580](#). p. 278–279, quoted in Wikipedia under "nationality."

<sup>84</sup> *United States v. Wong Kim Ark*, 169 U.S. 649 (1898)

<sup>85</sup> *Black's Law Dictionary, Sixth Edition*, p. 1025, *Nationality*.

protection from other nations/States to the national while abroad.<sup>86,87,88</sup> No rights or obligations are automatically attached to the national status. But a national is entitled to a passport from his nation-State and is entitled to entry into his nation-State at any time.<sup>89</sup>

Each State determines its own rules for acquiring nationality.<sup>90</sup> Most people acquire their nationality at birth. There are two ancient and fundamental rules, “law of the soil” (*jus soli*) and “law of the bloodline” (*jus sanguinis*), for acquiring nationality at birth that are recognized by many nation-States, including the United States.<sup>91</sup> *Jus soli* is the right of anyone born in the territory of a State to nationality or citizenship.<sup>92</sup> As an unconditional basis for citizenship, *jus soli* is the predominant rule in the Americas, but is rare elsewhere.<sup>93</sup> <sup>94</sup> *Jus sanguinis* is a principle of nationality law by which citizenship is not determined by place of birth but by having one or both parents who are citizens of the State. Subsequent to birth, it is possible to acquire a new nationality via naturalization. Generally, all citizens are nationals, but not all nationals are citizens.<sup>95</sup> Therefore, when a person acquires a specific citizen, whether by birth or by naturalization, the person simultaneously acquires nationality. Often, by naturalizing to a new nation-State, one will lose their nationality of birth/origin. But some nations/States allow their nationals who have naturalized to another State to keep their nationality of origin/birth. Hence, it may be possible to possess multiple nationalities. Also, under some conditions, it may be possible to acquire dual nationality at birth if one is born in a State foreign to that of their parents. It is also possible to be “Stateless,” to not be a national of any State. Most States refer to their nationals as “nationals”; but some States, refer to their nationals as “subjects.”

“The law of England, and of almost all civilized countries, ascribes to each individual at his birth two distinct legal States or conditions: one, by virtue of which he becomes the subject of some particular country, binding him by the tie of natural allegiance, and which may be called his political status; another by virtue of which he has ascribed to him the character of a citizen of some particular country, and as such is possessed of certain municipal rights, and subject to certain obligations, which latter character is the civil status or condition of the individual, and may be quite different from his political status. And then, while maintaining that the civil status is universally governed by the single principle of domicil, *domicilium*, the criterion established by international law for the purpose of determining civil status, and the basis on which the personal rights of the party, that is to say, the law which determines his majority or minority, his marriage, succession, testacy or intestacy, must depend, he yet distinctly recognized that a man's political status, his country, *patria*, and his “nationality, that is, natural allegiance,” “may depend on different laws in different countries.” Pp. 457, 460. He evidently used the word “citizen” not as equivalent to “subject,” but rather to “inhabitant,” and had no thought of impeaching the established rule that all persons born under British dominion are natural-born subjects.”

*[United States v. Wong Kim Ark, 169 U.S. 649 (1898)]*

<sup>86</sup> *Minor v. Happersett*, 88 U.S. 162 (1874)

<sup>87</sup> U.S. Department of State Foreign Affairs Manual Volume 7 (CT:CON-445; 02-22-2013), §1111(b)(1)

<sup>88</sup> *Black's Law Dictionary, Sixth Edition*, p. 1025, *Nationality*

<sup>89</sup> U.S. Department of State Foreign Affairs Manual Volume 7 (CT:CON-445; 02-22-2013), Section 1111(b)(1)

<sup>90</sup> *United States v. Wong Kim Ark*, 169 U.S. 649 (1898)

<sup>91</sup> *U.S. Department of State Foreign Affairs Manual Vol. 7 (CT:CON-445; 02-22-2013), Section 1111(a)*

<sup>92</sup> *Vincent, Andrew (2002). Nationalism and particularity. Cambridge; New York: Cambridge University Press*, quoted in Wikipedia under “*jus soli*.”

<sup>93</sup> [Chicago Tribune: "Birthright citizenship benefits the country" by Ronald D. Rotunda](#) 16 September 2010, quoted in Wikipedia under “*jus soli*.”

<sup>94</sup> [Texas Tribune: "Repeal Birthright Citizenship — and Then What?" by Morgan Smith](#) 16 August 2010, quoted in Wikipedia under “*jus soli*.”

<sup>95</sup> U.S. Department of State Foreign Affairs Manual Volume 7 (CT:CON-445; 02-22-2013), Section 1111(b)

8 USC §1101(a)(21) "The term "national" means a person owing permanent allegiance to a State."

"Nationality. That quality or character which arises from the fact that a person's belonging to a nation or State. Nationality determines the political status of the individual, especially with reference to allegiance; while domicile determines his civil status. Nationality arises either by birth or by nationalization. See also Naturalization."

*[Black's Law Dictionary, Sixth Edition, p. 1025]*

"There cannot be a nation without a people. The very idea of a political community such as a nation is implies an association of persons for the promotion of their general welfare. Each one of the persons associated becomes a member of the nation formed by the association. He owes it allegiance and is entitled to its protection. Allegiance and protection are in this connection reciprocal obligations. The one is a compensation for the other; allegiance for protection and protection for allegiance."

*[Minor v. Happersett, 88 U.S. 162 (1874)]*

#### 7 FAM §1111 Introduction

a. U.S. citizenship may be acquired either at birth or through naturalization subsequent to birth. U.S. laws governing the acquisition of citizenship at birth embody two legal principles:

- (1) Jus soli (the **law of the soil**) - a rule of common-law under which the place of a person's birth determines citizenship. In addition to common-law, this principle is embodied in the 14th Amendment to the U.S. Constitution and the various U.S. citizenship and nationality statutes.
- (2) Jus sanguinis (the **law of the bloodline**) - a concept of Roman or civil law under which a person's citizenship is determined by the citizenship of one or both parents. This rule, frequently called "citizenship by descent" or "derivative citizenship", is not embodied in the U.S. Constitution, but such citizenship is granted through statute. As U.S. laws have changed, the requirements for conferring and retaining derivative citizenship have also changed.

*[U.S. Department of State Foreign Affairs Manual Vol. 7 (CT:CON-445; 02-22-2013), Section 1111(a)]*

## 18.2 **Civil Status - Citizen**

A person's civil status is their citizen, which is universally governed by the single principle of domicile.<sup>96</sup> A person's domicile determines their civil status.<sup>97</sup> The criterion for determining a person's civil status is established by international law.<sup>98</sup> Domicile is the person's permanent home within some specific legal jurisdiction of a State. A person's domicile is the nexus which creates personal jurisdiction over the person in matters of personal law such as: age of majority, taxes, the ability to sue or be sued, probate, family and matrimonial property, and marriage/divorce. A person's domicile determines the jurisdiction which has personal jurisdiction over the person, regardless of whether or not the person is residing in the jurisdiction. Domicile determines the locality where the citizen is subject to certain obligations and may exercise certain political rights, such as voting.

Many States are unitary, where all sovereignty power resides in the State itself. The territory of a unitary State may be divided into regions, but they are not sovereign and are subordinate to the States. However, the more autonomy granted to the regions of a unitary State, the more the unitary State resembles a Union of federated States described below. A unitary State has only a single territorial jurisdiction in which domicile may be acquired. The territorial borders of such a unitary State will often be the same as the

<sup>96</sup> United States v. Wong Kim Ark, 169 U.S. 649 (1898)

<sup>97</sup> Merriam Webster's Unabridged Dictionary, definition for "domicile"

<sup>98</sup> United States v. Wong Kim Ark, 169 U.S. 649 (1898)



territorial jurisdiction of the State. If a national of a unitary State and has their domicile in the territorial jurisdiction of their State then they are also a citizen of their State. Hence, there will be is little need to distinguish between a person's nationality versus their citizen. A citizen of such a unitary State will always be a national of the same State and will therefore have full-citizenship. But, not all nationals of a State are citizens of the State. A national with their domicile in a legal jurisdiction outside of the State of their nationality will have only partial citizenship. Relative to the State of their nationality, they would be a non-citizen national, and relative to the State of their domicile, they would be a resident alien.

Some States are composite States, States which are comprised of other States and which have multiple legal jurisdictions in which domicile may be acquired. The two most common types of a composite State would be a Union of confederated States and a Union of federated States. The difference between these two types of Unions is the distribution of sovereign territorial powers.

In a Union of confederated States all sovereign territorial powers are held by the confederated States. Each State is a separated legal jurisdiction from the other States in the Union in which domicile may be established. The United States of America Union is an example of a Union of confederated States. Citizen status is held at the State level only, not with the central government. Citizens are subject to the laws of their State, but not the laws of the central government. The central government represents the confederated States on all international issues, including passports. Therefore, a citizen of a confederated State is also a national of the central government. A citizen of a confederated States owes allegiance primarily to their State government. But because their State government is a member of the Union, a State citizen would also owe allegiance to the central government.

In a Union of federated States, the distribution of sovereign territorial powers is split between the central government and the State governments of the Union. Each State is a separated legal jurisdiction from the other States in the Union in which domicile may be established. The United States Union is an example of a Union of federated States. Since the central government shares concurrent territorial jurisdiction over a federated State with each State government in the Union, citizen status is held at both the State and federal level. Citizens are subject to the laws of their State and the central government. The central government represents the federated States on all international issues and all citizens owe allegiance to the central State government.

When dealing with Unions of States, it becomes more important to distinguish between the nationality and citizen of a person since they will be different from each other.

**Munn. V. Illinois, 94 U.S. 113 (1876)** - *"When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. "A Body politic", as aptly defined in the preamble of the Constitution of Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusive private, Thorpe v. R. & B. Railroad Co., 27 Vt. 143; but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government, and has found expression in the maxim sic utere tuo ut alienum non laedes. From this source come the police powers, which, as was said by Mr. Chief Justice Taney in License Cases, 5 How. 583, "are nothing more or less than the powers of government inherent in every sovereignty, . . . that is to say, . . . the power to govern men and things."*



**Merriam-Webster's Unabridged Dictionary, domicile** *also domicil* , **noun** -s

**2. a) :** *“the place with which a person has a settled connection for important legal purposes (as determination of his civil status, jurisdiction to impose personal judgments or taxes on him, or determination of the succession to his personal property on his death) : the place of his permanent and principal home or of his last such home if he has not yet acquired a new one or the place assigned by law to him as his home if he has no legal capacity to choose his own (as in the case of a minor or insane person)*

**b) :** *an actual dwelling place that is one's permanent and principal home”*

**Black's Law dictionary, 6th Edition (1990) - Domicile.** . . . *“The legal domicile of a person is important since it, rather than the actual residence, often controls the jurisdiction of the taxing authorities and determines where a person may exercise the privilege of voting and other legal rights and privileges.”*

**Black's Law Dictionary, 6<sup>th</sup> Edition (1990) - Resident alien.** *“One, not yet a citizen of this country, who has come into the country from another with the intent to abandon his former citizenship and to reside here.”*

**Williams v. North Carolina, 325 U.S. 226 (1945)** – *“Under our system of law, judicial power to grant a divorce -- jurisdiction, strictly speaking -- is founded on domicil. Bell v. Bell, 181 U.S. 175; Andrews v. Andrews, 188 U.S. 14. The framers of the Constitution were familiar with this jurisdictional prerequisite, and, since 1789, neither this Court nor any other court in the English-speaking world has questioned it. Domicil implies a nexus between person and place of such permanence as to control the creation of legal relations and responsibilities of the utmost significance.”*

**Worcester County Trust Co. v. Riley, 302 U.S. 292** – *“Neither the Fourteenth Amendment nor the full faith and credit clause . . . requires uniformity in the decisions of the courts of different States as to the place of domicil, where the exertion of State power is dependent upon domicil within its boundaries.”*

**U.S. v. Novero, D.C.Mo., 58 F.Supp. 275, 278.** – *“A "domicile" is the place where the law regards a person to be, regardless of whether he is corporeally found there.*”

**In re Moore's Estate, 415 P.2d 653, 656, 68 Wash.2d 792.** – *“Term "domicile" connotes a place with which a person has a connection for certain legal purposes, e.g., jurisdiction, determination of legitimacy, descent of personal property.”*

**Dosamantes v. Dosamantes, Tex.Civ.App., 500 S.W.2d 233, 236.** – *“"Domicile" implies a nexus between a person and place of such permanence as to authorize control of legal status, relationship and responsibilities of the domiciliary.”*

7 FAM §1111 Introduction

b. National vs. Citizen: **While most people and countries use the terms “citizenship” and “nationality” interchangeably, U.S. law differentiates between the two. Under current law all U.S. citizens are also U.S. nationals, but not all U.S. nationals are U.S. citizens.** The term “national of the United States”, as defined by statute (INA 101 (a)(22) (8 U.S.C. 1101(a)(22)) includes all citizens of the United States, and other persons who owe allegiance to the United States but who have not been granted the privilege of citizenship.

(1) **Nationals of the United States who are not citizens owe allegiance to the United States and are entitled to the consular protection of the United States when abroad, and to U.S. documentation, such as U.S. passports with appropriate endorsements.** They are not entitled to voting representation in Congress and, under most State laws, are not entitled to vote in Federal, State, or local elections except in their place of birth. (See 7 FAM 012; 7 FAM 1300 Appendix B Endorsement 09.)

(2) Historically, Congress, through statutes, granted U.S. non-citizen nationality to persons born or inhabiting territory acquired by the United States through conquest or treaty. At one time or other natives and certain other residents of Puerto Rico, the U.S. Virgin Islands, the Philippines, Guam, and the Panama Canal Zone were U.S. non-citizen nationals. (See 7 FAM 1120.)

(3) **Under current law, only persons born in American Samoa and Swains Island are U.S. non-citizen nationals** (INA 101(a)(29) (8 U.S.C. 1101(a)(29) and INA 308(1) (8 U.S.C. 1408)). (See 7 FAM 1125.) [U.S. Department of State Foreign Affairs Manual Vol. 7 (CT:CON-445; 02-22-2013), Section 1111(b)]

## **18.3 Domicile**

Domicile is the single governing principle for determining the civil status of a person.<sup>99</sup>

### **18.3.1 Introduction**

The word “domicile” is derived from the Latin “domus,” meaning a home or dwelling House. Domicile is the legal conception of home, and the relation created by law between an individual and a particular locality or country. The term has been variously defined, the definitions agreeing substantially on the elements of a true, fixed home, habitation, or abode, where a person intends to remain permanently or indefinitely, and to which, whenever absent, he intends to return.<sup>100</sup>

Under English law, the basic principles of domicile are that:

- 1) no person can be without a domicile
- 2) no person can at the same time have more than one domicile
- 3) an existing domicile is presumed to continue until it is proved that a new domicile has been acquired.

### **18.3.2 Domicile versus Residence**

Since domicile and residence are usually in the same place, they are frequently used as if they had the same meaning. However, there is a marked distinction between domicile and residence. Domicile means living in a locality with intent to make it a fixed and permanent home, while residence simply requires bodily presence as an inhabitant in a given place.<sup>101</sup> “Domicile” is a larger term, of more extensive signification, and has been said to be used more in reference to personal rights, duties, and obligations; and residence is of a more temporary character than domicile. Also, one may have his residence in one place while his domicile is in another, and may have more than one residence at the same time, but only one domicile.<sup>102</sup>

The terms “domicile” and “residence,” as used in statutes, are commonly, although not necessarily, construed as synonymous.<sup>103</sup> Complications arise because statutes rarely use the word *domicile* but refer instead to *residence*. In such contexts, *residence* usually bears the same meaning as *domicile*, but on occasion it may mean something else, such as a well-settled physical connection with the State without bearing toward it the requisite attitude of mind that one intends to reside there permanently or indefinitely. Where a statute prescribes residence as a qualification for the enjoyment of a privilege of benefit, or the exercise of a franchise, the terms “residence” and “domicile” are equivalent.<sup>104</sup>

<sup>99</sup> United States v. Wong Kim Ark, 169 U.S. 649 (1898)

<sup>100</sup> Title 28 Corpus Juris Secundum Legal Encyclopedia, Domicile, Section 3

<sup>101</sup> Green v. United States, 1962 U.S. Dist. LEXIS 5122 ( E.D. Mich. 1962)

<sup>102</sup> Title 28 Corpus Juris Secundum, Domicile, Section 4

<sup>103</sup> Title 28 Corpus Juris Secundum, Domicile, Section 4

<sup>104</sup> Title 28 Corpus Juris Secundum, Domicile, Section 4

### **18.3.3 Three Types of Domicile**

The types of domicile as organized under common-law and statutes are:

#### **18.3.3.1 Domicile of Origin**

A person acquires a domicile of origin at birth. The law attributes to every individual a domicile of origin, which is the domicile of his parents, or of the father, or of the head of his family, or of the person on whom he is legally dependent, at the time of his birth.<sup>105</sup> Foundlings have a domicile of origin in the country in which they are found.

#### **18.3.3.2 Domicile of Choice**

A domicile may be any building or shelter used as a permanent residence, although not characterized by the usual appearance of a dwelling house or the ordinary comforts of a home.<sup>106</sup> Except as the rule may be affected by statutory regulation, no particular period of residence or specified length of time in a particular place is required in order to establish a domicile, but when coupled with the element of intent to establish a domicile any residence, however short will be sufficient, even if it is but for a day or an hour. Although a long-continued residence in one place has been regarded as strong evidence, or even a controlling circumstance, in determining the question of domicile, residence alone, or a mere change of residence, however long continued, will not establish domicile or effect a change of domicile, in absence of the requisite intention.<sup>107</sup> In order to establish a new domicile, the intent to do so must be unqualified and not conditional upon the happening of some future event. The intention to make a home must be an intention to make a home at the moment, not to make a home in the future.<sup>108</sup> Temporary residence, even if long, merely for the purpose of transacting business or of engaging in employment, or participating in a training program, or acquiring an education or some art or skill, or for the sake of health or pleasure, with the intention of returning to the original home, is not sufficient for the acquisition or change of domicile.<sup>109</sup>

Domicile of choice is entirely a question of residence or physical presence and intention, or as it is frequently put, of factum and animus.<sup>110</sup>

#### **18.3.3.3 Domicile by Operation of Law**

Persons who lack the legal capacity to acquire a domicile of their own possess domicile by operation of law. The domicile of a dependent person is the same as, and changes with, the domicile of the person on whom he or she is, as regards domicile, legally dependent. Prime examples of dependent persons who have domicile by operation of law are minor children and the mentally disordered.

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<sup>105</sup> Title 28 Corpus Juris Secundum, Domicile, Section 7

<sup>106</sup> Title 28 Corpus Juris Secundum, Domicile, Section 12

<sup>107</sup> Title 28 Corpus Juris Secundum, Domicile, Section 13

<sup>108</sup> Title 28 Corpus Juris Secundum, Domicile, Section 14

<sup>109</sup> Title 28 Corpus Juris Secundum, Domicile, Section 17

<sup>110</sup> Title 28 Corpus Juris Secundum, Domicile, Section 11

## 19 The States, State Constitutions, and State Governments

Each State Constitution of the several States claim that all real-property located within their confederated State shall be taxed in proportion to its value. That claim of power, which claim the county and city municipal governments act on to tax all real-property located within its confederated State, is without authority.

The first goal of this section is to examine the Constitution of the State of California to demonstrate the features of the State and of the State government that are common to all of the several States, and to gain a good understanding of the State Constitutions. A good understanding of the State Constitution is needed to meet the second goal of this section: to be able to recognize within the State Constitution the invalid claim of power for the county and city municipalities to impose local real property taxes.

### 19.1 The Meanings of State

Critical to understanding the State Constitutions is a good understanding of the word “State.” Bouvier’s Law Dictionary (1856), gives the three context sensitive meanings for the word definitions of “State,” each of which are used in the State Constitutions.

**Bouvier’s Law Dictionary (1856), STATE, government.** *“This word is used in various senses.*

- 1) *In its most enlarged sense, it signifies a self-sufficient body of persons united together in one community for the defence of their rights, and to do right and justice to foreigners. In this sense, the state means the whole people united into one body politic; (q. v.) and the state, and the people of the state, are equivalent expressions. 1 Pet. Cond. Rep. 37 to 39; 3 Dall. 93; 2 Dall. 425; 2 Wilson’s Lect. 120; Dane’s Appx. §50, p. 63 1 Story, Const. §361.*
- 2) *In a more limited sense, the word ‘state’ expresses merely the positive or actual organization of the legislative, or judicial powers; thus the actual government of the state is designated by the name of the state; hence the expression, the state has passed such a law, or prohibited such an act.*
- 3) *State also means the section of territory occupied by a state, as the state of Pennsylvania.”*

### 19.2 California - Pre-Statehood

Just prior to 1846, the territory known today as “California” was a neglected Mexican State, then known as “Alta California.” On June 14, 1846, during a rebellion against the Mexican government which led to the Mexican American War, California became a self-declared independent republic and a month later accepted the protection of the United States of America, including the appointment of military governors. On June 3, 1849, the then Governor of California issued a proclamation recommending the formation of either a State Constitution, or a plan for Territorial Government. During the Constitutional Convention of California, which convened on September 1, 1849, the delegates of California voted to directly re-organize California as a State of the Union rather than as a temporary Territorial Government, breaking the traditional procedure of statehood followed by most of the other admitted States.

On September 9, 1850, by an Act of the 31<sup>st</sup> Congress of the United States, the federated State known as the “State of California” was admitted to the United States Union, the Union established by the Constitution of September 17, 1787. On that same date, the confederated State known as “California” was admitted by its Senators into the Senate of the United States of America, and thereby, into the United States of America Union of sovereign States, the Union established by the Articles of Confederation.

“California” consists of all the territory located within its exterior borders. The portion of the State known by the name of “California” which is not owed by the United States of America uses English common-law as their system of law.

The “State of California” consists of the territory located within the exterior borders of “California” that is owned by the United States of America. In the “State of California,” the Constitution of the State of California and the statutes made in pursuance of that constitution is the law. But the Constitution of September 17, 1787 and the laws of the United States is the supreme law in the “State of California.

### **19.3 State of California Constitutions**

The State of California, like most of the other States admitted to the United States Union, has multiple versions of its State Constitution. The 1849 Constitution of the State of California, the first version of the Constitution, was used to admit California to the perpetual Union. The 1879 Constitution of the State of California is the second and last version of the Constitution to be ratified. Since 1879, the final version of the Constitution has had numerous amendments.

Ratification of a new State Constitution does not repeal the previous versions of the State Constitution. Any provisions in a previous version of the State Constitution unaffected by newer versions of the Constitution remain law in the State.

#### **19.3.1 1849 Constitution of the State of California**

Many of the basic structures of the government established in the 1849 Constitution of the State of California<sup>111</sup> are still valid today. As the 1849 version of the Constitution of the State of California prints out on only 19 pages, it is orders of magnitudes shorter than the current amended version. This analysis will put more focus on the 1849 Constitution of the State of California relative to the other more recent versions.

##### **19.3.1.1 “This State” versus “the State”**

The State Constitutions are written cryptically using the terms “this State” and “the State.” One of those terms, in a geographical sense, refers to the confederated State, all of the territory within the exterior borders of the State. The other term, in a geographical sense, refers to the federated States, which State consists of all of the territory located within the exterior borders of the confederated State that is owned by the United States of America. Each of those terms is also used in a political sense. For the case of the confederated State, the term, in a political sense, is a reference to the people of the State. For the case of the federated State, the term, in a political sense, is a reference to the State government. Understanding the State Constitutions starts with identifying which of the two terms is a reference to the confederated State and which is a reference to the federated State.

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<sup>111</sup> [http://www.dircost.unito.it/cs/pdf/18490000\\_UsaCalifornia\\_eng.pdf](http://www.dircost.unito.it/cs/pdf/18490000_UsaCalifornia_eng.pdf)

### 19.3.1.2 The Federated State

#### 19.3.1.2.1 The Federated State is Identified to be “the State,” “State of California”

The Declaration of Independence established that the only type of government possible in America is one which governs by the consent of the governed. Since the Bill of Rights of 1689, the “consent of the governed” has been given by direct representation of the people whom are governed in the legislative assembly doing the governing. Direct representation is acquired via the right to vote. A people without direct representation may not have their private unalienable rights regulated, including their private unalienable right to earn a living. The several State governments have the authority to tax the citizens of their federated State but not the citizens of their confederated State. Therefore the citizens of their federated State must have the right to vote. A citizen of a federated State has dual citizenship. A citizen of a federated State is a “citizen of the United States” who is domiciled in the federated State, a part of the United States, and therefore, is subject to the federal laws and the State laws of their State, including the tax laws.

The right of suffrage is contained in Article II Section 1: “Every while male **citizen of the United States**, and every white male citizen of Mexico” . . . “who have elected to become a citizen of the United States,” . . . “of the age of twenty-one years, who have been a **resident of “the State”** for six months next preceding the election, **and the county or district in which he claims his vote** thirty days, **shall be entitled to vote** at all elections which are now or hereinafter authorized by law.” According to the 14<sup>th</sup> Amendment, those citizens of the United States are also citizens of the federated State in which they reside. Also, those citizens of the federated State have direct representation in the State’s legislative assembly, which is confirmed by the enacting clause contained in Article IV Section 1: “**The people of the State of California, represented in the Senate and Assembly, do enact as follows.**”

From the enacting clause, we know that the federated State is named the “*State of California*.” From the right of suffrage clause, we know that the federated State is referenced in the Constitution as “*the State*,” in a geographical sense.

A citizen of the federated State, more specifically known as a “citizen of the State of California,” is equated with being a citizen of the United States in the requisites for members of the State’s Legislature, which requisites are contained in Article IV Section 4 and Article IV Section 5. Members “*shall be duly qualified electors in the respective counties and districts which they represent*,” which members, according to the right of suffrage clause, must be “citizens of the United States.” Also, per Article IV Section 5, no person shall be a member who has not been a citizen of “**the State**” one year. “The State” is a reference to the federated State by the name of “State of California.” So, a citizen of “the State” is a “citizen of the State of California,” which proves that a “citizen of the State of California” is also a “citizen of the United States.”

The phrase “the State,” in a geographical sense, means the federated State by the name of “State of California.” It consists of all of the territory located within the exterior borders of “California” that is owned by the United States of America. “Citizens of the State of California” are “citizens of the United States” who are domiciled in the “State of California.”



**1849 Constitution of the State of California, Article II Sec. 1.** *“Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro, on the 30<sup>th</sup> day of May, 1848 of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may authorized by law.”*

**1849 Constitution of the State of California, Article IV, Sec. 1.** *“The Legislative power of this State shall be vested in a Senate and Assembly, which shall be designated the Legislature of the State of California; and enacting clause of every law shall be as follows: “The people of the State of California, represented in Senate and Assembly, do enact as follows.””*

**1849 Constitution of the State of California, Article IV, Sec. 4.** – *“Senators and Members of Assembly shall be duly qualified electors in the respective counties and districts which they represent.”*

**1849 Constitution of the State of California, Article IV, Sec. 5.** – *“Senators shall be chosen for the term of two years, at the same time and places as Members if Assembly; and no person shall be a member of the Senate or Assembly, who has not been a citizen and inhabitant of the State one year, and of the country or district for which he shall be chosen six months next before his election.”*

#### **19.3.1.2.2 Geographical Sub-Division of the Federated State, “the State”**

Section 14 of the Schedule of the 1849 Constitution of the State of California requires the State government to divide “the State” into counties, assembly districts, senatorial districts, and congressional districts. Furthermore, Article VI Section5 of the State Constitution reveals that “the State” shall be divided into a convenient number of State judicial districts. The phrase “The State” is a reference to the federated State by the name of the “State of California,” which State consists exclusively of territory that is owned by the United States of America. As “the State” consists exclusively of territory owned by the United States of America, each of the counties and each of the various types of districts that “the State” is divided into will also consist exclusively of territory owned by the United States of America.

Article IV Section 30 of the Constitution reveals that a congressional, senatorial, or assembly district shall consists of one or more counties; and no county shall be divided in forming a congressional, senatorial, or assembly district. Section 2 of Title 1 of the U.S. Code defines the word “county” to consist of all the territory located within the county exterior borders that is owned by the United States of America. The United States Code is the supreme law in the United States. Those two laws together, Article IV Section 30 of the State Constitution and 1 U.S.C. § 2, confirm that each county, assembly district, senatorial district, congressional district, and State judicial district consists of all of the territory located within its exterior borders that is owned by the United States of America.

**1849 Constitution of the State of California, Article IV Sec. 30.** – *“When a congressional, senatorial, or assembly district, shall be composed of two or more counties, it shall not be separated by any county belonging to another district; and no county shall be divided, in forming a congressional, senatorial, or assembly district.”*

**1849 Constitution of the State of California, Article VI, Sec. 5.** - *“The State shall be divided by the first Legislature into a convenient number of districts subject to such alteration from time to time as the public good may require, for each of which a district judge shall be appointed by the joint vote of the Legislature, at its first meeting, who shall hold his office for two years from the first day of January next after his election; after which, said judges shall be elected by the qualified electors of their respective districts, at the general election, and shall hold their office for the term of six years.”*

**1849 Constitution of the State of California, Schedule, Sec. 14.** – *“Until the Legislature shall divide the State into counties, and senatorial and assembly districts, as directed by this Constitution, the following shall be the apportionment of the two houses of the Legislature, viz: the districts of San Diego and Los Angeles, shall jointly . . .”*

### **19.3.1.3    The State Government**

#### **19.3.1.3.1    The State Government Identified to be “the State,” in a Political Sense**

Article I Section 20 describes what shall be considered treason against “the State,” and the Random House Webster’s Unabridged Dictionary defines “Treason” as the offense of acting to overthrow one’s government. From the above, we know the “the State” in a political sense, is a reference to the State government.

Article III divides the power of the “Government of the State of California” into three departments. One of the definitions for the word “State” contained in Bouvier’s Law Dictionary reveals that the actual government of the State is designated by the name of the State. From the above, we know that the name of the government created by the State Constitution is named the “State of California.” The government by the name of “State of California” is referenced in the State Constitution with the phrase “the State,” in a political sense.

The above conclusion is confirmed in Article IV Section 2 and Article V Section 1. Article III reveals that one of the departments of the State government is the executive Branch. In Article V Section 1, the executive power of this State is vested in a chief magistrate, who shall be styled the “Governor of the State of California.” That Governor is the head of the executive branch of the State government known by the “State of California.” The “Governor of the State of California” is also referred to as the “Governor of the State” in Article IV Section 2, confirming that the government is named the “State of California” and is referred to with the phrase “the State,” in a political sense.

To conclude, “the State,” in a political sense, is a reference to the State government created in the State Constitution, which government is named the “State of California.”

**1849 Constitution of the State of California, Article I Sec. 20.** *“Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless the evidence of two witnesses to the same overt act, or confession in open court.”*

**Random House Webster’s Unabridged Dictionary, Treason n.** – *“the offense of acting to overthrow one’s government or to harm or kill its sovereign.”*

**1849 Constitution of the State of California, Article III.** *“The powers of the Government of the State of California shall be divided into three separate departments: the Legislative, the Executive, and Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.”*

**1849 Constitution of the State of California, Article IV Sec. 2.** *“The sessions of the Legislature shall be annual, and shall commence on the first Monday of January, next ensuing the election of its members, unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.”*

**1849 Constitution of the State of California, Article V Sec. 1.** *“The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California.”*

#### **19.3.1.3.2 Structure of the State Government**

There are many characteristics of the State government that are very similar to those of the earlier district government of the Northwest Territory, including the following:

- 1) A three-branch government headed by the Governor.
- 2) A two-house legislative assembly.
- 3) Bills have to be passed by both houses and approved by the Governor before becoming law.
- 4) The power to regulate and tax people is based on the proprietary/military power of the United States of America and therefore, is limited to territory owned by the United States of America.
- 5) Republican in form (relative to the “State of California” only, but not relative to “California”).
- 6) Electors of the State have direct representation in the legislative assembly, are located or domiciled on territory of the United States of America and therefore, are subject to taxation.
- 7) The Governor is charged with making sure that the laws are faithfully executed.
- 8) The Governor is the commander-in-chief of the militia.
- 9) The enforcement of the laws was based on the military power of the United States of America. All police power on federal land is derived from the military power possessed by the Governor. As the Commander in Chief of the State militia, the Governor possesses all the military power needed for the enforcement of the laws in the federal land located within its borders. Under Article VII Section 3, the Governor expressly has the power to call forth the militia, to execute the laws of the State.

**1849 Constitution of the State of California, Article V Sec. 5.** *“The Governor shall be commander-in-chief of the militia, the army and navy of this State.”*

**1849 Constitution of the State of California, Article V Sec. 7.** *“He shall see that the laws are faithfully executed.”*

**1849 Constitution of the State of California, Article VII Sec. 3.** *“The governor shall have power to call forth the militia, to execute the laws of the State, to suppress insurrections, and repel invasions.”*

#### **19.3.1.3.3 Two Genuses of Legislative Power**

Per Article I Section 2, all political power is inherent in the people. The people of a confederated State delegated to their State government all political power that they possessed, which included their inherent political power plus the military/proprietary power of the United States of America that was conferred to them by the Confederation Congress. The military/proprietary power of the United States of America is a power that is inherent in the people of the United States of America, the people of the collective confederated States. Ultimately, the territory owned by the Confederation Congress, the representatives of the collective confederated States, is owned by the American people. The inherent political powers of the people of a confederated State includes the right to tax artificial persons and public rights, but excludes the right to tax the private inalienable rights of other free people. The proprietary/military power of the United States of America includes the power to tax people, property, and privileged activities, but is limited to territory owned by or ceded to the United States of America. Therefore, a State’s legislature can create two types of law:

- 1) **General Law:** Per Article I Section 11, general laws are laws of a general nature which have uniform operation throughout the confederated State, including within the federated State. The enactment of general laws is an exercise of the power inherent in the people of the confederated State known by the name of “California.” Article IV Section 31 expressly permits the formation of corporations under general laws. A corporation is an artificial person created by the State government. Since created by the government, corporations can be taxed and regulated by the government. The income of a corporation will be taxed and regulated regardless of where the corporate conducts its business, whether within or without the federated State. Also, anyone who conducts business under a corporation is exercising a public right and therefore, is taxed. Under Article IV Section 32, *“Dues from corporations shall be secured by such individual liability of the corporators.”* General laws would have to exclude any laws which tax and regulate the private rights of people, their property, or privileged activities because that power is not inherent in the citizens of the confederate State.
- 2) **Special Acts:** General laws are distinguished from Special Acts in that general laws have uniform operation within the confederated State. Special Acts must therefore have operation limited to the federated State, the concurrent territorial jurisdiction of the State government. The enactment of any law to tax and regulate the private rights of people, property, or privileged activities would have be an exercise of the proprietary/military power of the United States of America. Such laws are called Special Acts under the 1849 Constitution of the State of California and are limited to the federated State known by the name of the “State of California.” Only corporations created for municipal purposes may be created by Special Acts. The citizens of the United States can be taxed and regulated because they are domiciled in the United States.

**1849 Constitution of the State of California, Article I Sec. 2.** – *“All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same, whenever the public good may require it.”*

**1849 Constitution of the State of California, Article I Sec. 11.** – “All laws of a general nature shall have a uniform operation.”

**1849 Constitution of the State of California, Article IV Sec. 31.** – “Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.”

**1849 Constitution of the State of California, Article IV Sec. 32.** “Dues from corporations shall be secured by such individual liability of the corporators, and other means, as may be prescribed by law.”

#### **19.3.1.4    The Confederated State**

##### **19.3.1.4.1    The Confederated State is Identified to be “this State,” “California”**

The Preamble reveals that the people of California established the 1849 Constitution of the State of California, the Constitution that was used to admit “California.” That Constitution created a State government. Under Article IV Section 1, Article V Section 1 and Article VI Section 1, the People of California, referred to therein as “this State,” vested all of their political powers in the State government. Upon the establishment of the 1849 Constitution of the State of California, under Section 5 of the Schedule, the “citizens of California” were entitled to vote in only the first general election under that Constitution. Thereafter, the “citizens of California” did not have directed representation in their State’s legislation. Therefore, the State government is republican in form relative to only the “State of California” but not relative to “California.” Hence, one reason why the private unalienable rights of the “citizens of California” cannot be regulated by the State’s legislature is that “citizens of California,” just like the “free inhabitants of Article IV of the Articles of Confederation, do not consent to be governed.

The citizens of California are referenced as citizens of “this State” in Article XI Section 2, in a clause which regulates the public rights, or public benefits, of a citizen of California. Citizens of California who shall fight a duel, *“shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.”* The disallowance of the enjoyment of the right of suffrage would have been in effect only for the first general election since that was the only election in which a citizen of California was allowed to participate in.

All the above identifies “California” as the confederated State, which State is referenced with the phrase “this State,” in a political sense, within the State Constitution. The collective citizens of the confederated States, the “citizens of California,” in their corporate form, are a self-sufficient body of person united into one body politic. The collective “citizens of California” and “California” are equivalent expressions. “Citizens of California” may not have their private unalienable rights regulated since they do not consent to be governed and because that is not one of the political powers inherent in the “citizens of California.”

**1849 Constitution of the State of California, Preamble.** “We, the people of California, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this Constitution.”

**1849 Constitution of the State of California, Article 4, Sec. 1.** “The Legislative power of this State shall be vested in a Senate and Assembly, which shall be designated the Legislature of the State of

*California; and enacting clause of every law shall be as follows: " The people of the State of California, represented in Senate and Assembly, do enact as follows."*

**1849 Constitution of the State of California, Article V Sec. 1.** *"The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California."*

**1849 Constitution of the State of California, Article VI Sec. 1.** *"The judicial power of this State shall be vested in a Supreme Court, in District Courts, in County Courts, and in Justices of the Peace. The Legislature may also establish such municipal and other inferior courts as may be deemed necessary."*

**1849 Constitution of the State of California, Article XI, Sec. 2.** *"Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send, or accept a challenge to fight a duel with deadly weapons, either within this State or out of it; or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution."*

**1849 Constitution of the State of California, Schedule, Sec. 5.** *"Every citizen of California, declared a legal voter by this Constitution, and every citizen of the United States, a resident of this State on the day of election, shall be entitled to vote at the first general election under this Constitution, and on the question of the adoption thereof."*

#### **19.3.1.4.2 The Collective Citizens of California, the depository of all political power**

Per Article I Section 2, the People of "This State," the collective citizens of California, is the depository of all political power, which power the people vested in their State government. The collective citizens of California created their State government for their protection and benefit. The State government is an agent/servant of the people, to act under them, the confederated State, which State is known by the name of "California." The State government is an instrumentality of the confederated State. Therefore, an office under the State government is an office under "this State" and officers of the State government are officers of "this State." Per Article V Section 5, the People of "This State," "California," maintains their own militia, army, and navy.

Under Article IX Section 2, any grants of land by the United States of America government for the support of schools, or any such percentage as may be granted by Congress on **the sale of land in "this State"** is granted to the collective citizens of California, "this State" or "California." The federated State, referred to as "the State," consists of all the territory owned by the United States of America that is located within the exterior border of "this State," the confederated State. So any sale of land would be a sale of land in "the State," which State is a subset of and in "this State." Article IX Section 2 proves that the federated State, "the State," is overlaid on top of and is a subset of the confederated State, "this State."

Article V Section 3 confirms that the territory of the federated State is not separated from the territory of the confederated State. The Governor is required to be a citizen of the United States and a resident of "this State" two years preceding the election. Citizens of the United States are domiciled in the United States, which is subdivided into the federated States. Therefore a citizen of the United States is domiciled



in one of the federated States. But since the federate States are a subset of and overlaid over the confederate State in which they were erected, anyone who is domiciled in a federated State is simultaneously resident in the confederated State, referred to as “this State.” Article V Section 3 confirms that the federated State, “the State,” is overlaid on top of and is a subset of the confederated State, “this State.”

The citizen requisite for the members of the State legislature is to be a citizen of the United States. Also, per Article V Section 3 and Article V Section 18, the citizen requisite for all constitutional offices in the executive branch is to a citizen of the United States, except for the first election. There is no citizen requisite for offices in the judicial branch. Therefore, under the 1849 State Constitution, a citizen of California could not hold an office in the legislative branch, but could hold an office in the executive branch for only the first term, and could hold an office in the judicial branch for any term. Per Article X, only the electors of the State’s legislature, which electors are citizens of the United States but not “citizens of California,” participated in the political process to ratify amendments to the 1849 State Constitution or in the decision as to whether or not to call a convention for purposes of ratifying new State Constitutions.

The phrase “this State,” in a political sense means the collective People of the confederate State known by the name of “California.” These people are the collective “citizens of California.”

**1849 Constitution of the State of California, Article I Sec. 2.** – *“All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same, whenever the public good may require it.”*

**1849 Constitution of the State of California, Article V Sec. 3.** *“No person shall be eligible to the office of the Governor, (except at the first election) who has not been a citizen of the United States and a resident of this State two years next preceding the election, and attained the age of twenty-five years at the time of said election.”*

**1849 Constitution of the State of California, Article V Sec. 5.** – *“The Governor shall be commander-in-chief of the militia, the army and navy of this State.”*

**1849 Constitution of the State of California, Article V Sec. 18.** *“A Secretary of State, a Comptroller, a Treasurer, an Attorney General, and Surveyor General, shall be chosen in the manner provided in this Constitution; and the term of office, and eligibility of each shall be the same as are prescribed for the Governor and Lieutenant Governor.”*

**1849 Constitution of the State of California, Article IX. Sec. 2.** *“The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement. The proceeds of all land that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A.D. 1841; and all estates of deceased persons who may have died without leaving a will, or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.”*

**Yick Wo v. Hopkins, 118 U.S. 356 (1886)** *“Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign power are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.”*

**Chisholm v. Georgia 2 U.S. 419 (1793) at 472** – *“From the differences existing between feudal sovereignties and governments founded on compacts, it necessarily follows that their respective prerogatives must differ. Sovereignty is the right to govern; a nation or State sovereign is the person or persons in whom that resides. In Europe, the sovereignty is generally ascribed to the Prince; here, it rests with the people; there, the sovereign actually administers the government; here, never in a single instance; our Governors are the agents of the people, and, at most, stand in the same relation to their sovereign in which regents in Europe stand to their sovereigns.”*

#### **19.3.1.4.3 The Confederated State, “this State,” in a Geographical Sense**

The phrase “This State,” in a geographical sense, is a reference to the territory of the confederated State known by “California,” which territory consists of all the territory located within the exterior borders of “California,” whether or not owned by the United States of America. Per Article IV Section 28, enumeration of the inhabitants of “this State,” “California,” shall be taken and shall serve as the basis of representation in both houses of the legislature. Per Article IV Section 29, the number of Senators and members of Assembly shall be fixed and apportioned among the several counties and districts according to the number of white inhabitants.

Per Article XI Section 19, absence from “this State,” in a geographical sense, on business of “the State” government or of the United States of America government, shall not affect the question of residence of any person.

**1849 Constitution of the State of California, Article IV Sec. 28.** – *“The enumeration of the inhabitants of this State shall be taken, under the direction of the Legislature, in the year one thousand eight hundred and fifty-two, and one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken, under the direction of the Congress of the United States, in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both houses of the Legislature.”*

**1849 Constitution of the State of California, Article XI Sec. 19.** – *“Absence from this State on business of the State, or of the United States, shall not affect the question of residence of any person.”*

#### **19.3.1.5 A System of Municipal Governments Throughout “the State”**

Per Article XI Section 4, the State legislature was mandated in the State Constitution to establish a system of county and city governments throughout “the State,” the federated State known by the “State of California” and consisting exclusively of territory owned by the United States of America. Per Article IV Section 37, these county and city municipal governments have the power of taxation and assessment and it was the duty of the legislature to restrict their power of taxation and assessment to prevent the abuse of assessment.

Article VI Section 14 mandates that “*The Legislature shall determine the number of Justices of the Peace, to be elected in each county, city, town, and incorporated village of **the State**.*” The phrase “*to be elected in each county*” gives Article VI Section 14 a geographical context, which means that each county, city, town, and incorporated village is a geographical subdivision of “**the State**,” the “State of California.” “*Each county, city, town, and incorporated village of **the State**,*” consists of all the territory located within their exterior borders that is owned by the United States of America and therefore, is a part of the territorial jurisdiction of the State government. The State government has the authority to tax any personal property and any privileged activities of the people within its territorial jurisdiction. That power of taxation was delegated to the county and city municipal governments under Article IV Section 37.

**1849 Constitution of the State of California, Article IV. Sec. 37.** – “*It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.*”

**1849 Constitution of the State of California, Article VI Sec. 14.** “*The Legislature shall determine the number of Justices of the Peace, to be elected in each county, city, town, and incorporated village of **the State**, and fix by law their powers, duties, and responsibilities. It shall also determine in what cases appeals may be made from Justices Courts to the County Court.*”

**1849 Constitution of the State of California, Article XI Sec. 4.** – “*The Legislature shall establish a system of county and town governments, which shall be as nearly as practicable, throughout the State.*”

#### **19.3.1.6    The Invalid Claim of a Certain Taxation Power**

Per Article XI Section 9, each county and city municipal government is required to make provisions for the support of its own officers, subject to such restrictions and regulations as the legislature may prescribe. Article XI Section 13 contains the guidelines to be used by the legislature in prescribing the restrictions and regulations to be observed by the county and municipal governments during the assessment of any local taxes.

The first guideline contained in Article XI Section 13 is: “*Taxation shall be equal and uniform throughout the State.*” The rule of uniformity is a restriction associated with an indirect tax on a privileged activity within the “the State” over some taxable period. To partake in a privilege activity within “the State” often requires a license. Usually the privileged activity is some sort of income producing activity such as manufacturing. The actual assessment for the person would involve multiplying the units of activity by the appropriate tax rate for the person’s volume of production. The assessment rate for a particular volume of production must be uniform through “the State.” “The State” is the federate State named the “State of California” and consists exclusively of the territory located within the exterior borders of “California that is owned by the United States of America. “The State” is the territorial jurisdiction of the State government where privileged activities may be taxed. The first guideline contained in Article XI Section 13 is a valid guideline.

The second guideline contained in Article XI Section 13 is: “*All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law.*” There are two problems with the second guideline. “This State” embraces all the territory located within the exterior borders of the confederated State by the name of “California” and includes a mix of territory that is either owned or not owned by the United States of America. But the territorial jurisdiction of the State government where the government may tax property is limited to the federated State by the name of the “State of California,” which State consists exclusively of territory that is owned by the United States of America. The second problem with the second guideline is that phrase “All property” embraces both real and personal property. But the authority of the State governments to tax property is restricted to just personal private property by the Organic Laws of the United States of America. The second guideline contained in Article XI Section 13 is an invalid guideline that is without authority.

Another issue with Article XI Section 13 is that it contains a contradiction within the section itself. The second guideline, which was proven invalid above, says: “all property in this State shall be taxed.” But then the Article XI Section 13 provision for assessors and collectors says: “assessors and collectors of taxes shall be elected by the qualified electors of the districts, county, or town in which the property taxed is situated. It was proven above that each of the districts, counties and towns of the qualified electors consists exclusively of the territory within its exterior borders that is owned the United State of America and that those districts, counties and towns are subdivisions of “the State.” Indirectly, the Article XI Section 13 provision for assessors and collectors says that the property taxed is situated in “the State.” The provision for assessors and collectors contradicts the second guideline of Article XI Section 13.

**1849 Constitution of the State of California, Article XI. Sec. 9.** – “*Each county, town, city, and incorporated village, shall make provision for the support of its own officers, subject to such restrictions and regulations as the Legislature may prescribe.*”

**1849 Constitution of the State of California, Article XI Sec. 13.** – “*Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; but assessors and collectors of town, county, and State taxes, shall be elected by the qualified electors of the district, county, or town, in which the property taxed for State, county, or town purposes is situated.*”

### **19.3.2    1879 Constitution of the State of California**

To be completed later.

### **19.3.3    The Current Constitution of the State of California**

To be completed later.