

# Who Do You Think You Are Dealing With?

**Disclaimer:** Nothing in this white paper is to be construed as legal advice. The reader should go to a law library and check every fact and citation for themselves, and form their own conclusions. The reader should get assistance of counsel, if you think you need it.

How does one PROVE that what passes for “the state” all around us, and upon us, is actually an unincorporated state, and **NOT one of the several States of the Union?**

The overwhelming majority of the American population (probably way over 90%) are not educated in the legal matter of what constitutes a “state”, and do not even know IT IS POSSIBLE to have two different kinds of “state”. Most attorneys are in the same position.

On the other hand, most Americans probably DO understand that the District of Columbia is NOT one of the several States of the Union.

We can start there.

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## PRELIMINARY FACTS

1. The Supreme Court held in 1804 that the District of Columbia was not one of the States, of the United States of America (March 4, A.D. 1789). The Court did it this way:

[This case] sets forth . . . a question whether . . . citizens and residents of the District of Columbia . . . can maintain an action in [the circuit] court against . . . a citizen and inhabitant of the commonwealth of Virginia.

On the part of the plaintiffs it has been urged that Columbia is a distinct political society; and is, therefore, “a state” according to the definitions of writers on general law.

This is true. But as the act of Congress obviously uses the word “state” in reference to that term as used in the constitution, it becomes necessary to inquire whether Columbia is a state in the sense of that instrument. The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the constitution.

. . . **the word state** is used in the constitution as **designating a member of the union**, and excludes from the term the signification attached to it by writers on the law of nations.  
*Hepburn and Dundas v. Ellzey*, 2 Cranch 445, 452 (1804) (emphasis added)

And THUS we see **two different kinds** of “state”; one that is a member of the several States of the Union, **OR any other** state, that is not “incorporated” as one of the several States of the Union, or “admitted” into the Union on an equal footing with the original thirteen Colonies.

2. **Amazingly**, there can be **both of these two kinds** of “state”, (one a member of the Union and the other NOT a member of the Union) **with the same name !**

This is shown clearly in *State of Texas v. White*, 74 U.S. 700 (1868) after the civil war. There is lengthy discussion of the character and attributes of Texas, as one of the several States of the Union, and also lengthy discussion of Texas, as a rebel state, referring across many pages of the court opinion to:

- a) “the usurping government of Texas”,
- b) “the insurgent government of Texas”,
- c) “insurgent legislature of Texas”,
- d) “insurgent State government” and
- e) “insurgent States”.

There can be a *de jure* Texas (one of the several States) and a *de facto* Texas (NOT one of the several States).

3. The meaning of “state” was given by the Supreme Court in that case as follows:

It describes sometimes a people or community of individuals united more or less closely in political relations, inhabiting temporarily or permanently the same country; often it denotes only the country or territorial region, inhabited by such a community; not unfrequently it is applied to the government under which the people live; at other times it represents the combined idea of people, territory, and government. *State of Texas v. White*, 74 U.S. 700, 721 (1868)

In short, “state” means: the people, the territory, the government, or the combined idea of people, territory, and government.

[Author’s conclusion:] So when the Constitution of the United States of America says, in Article I, Section 10, “No State shall” do certain things, it makes sense to say:

- a) “the people” [that the Constitution applies to] shall not do certain things, **OR**
- b) “the territory” [that the Constitution applies to] shall not do certain things, **OR**
- c) “the government” [that the Constitution applies to] shall not do certain things, **OR**
- d) “the combined idea” [that the Constitution applies to] shall not do certain things.

4. From Black’s Fourth Edition:

**THE.** An article which particularizes the subject spoken of. “Grammatical niceties should not be resorted to without necessity; but it would be extending liberality to an unwarrantable length to confound the articles ‘a’ and ‘the’. The most unlettered persons understand that ‘a’ is indefinite, but ‘the’ refers to a certain object.” Per Tilghman, C. J., *Sharff v. com.*, 2 Bin., Pa., 516; *Penn Mut. Life Ins. Co. v. Henderson*, D.C. Fla., 244 F. 877, 880; *Howell v. State*, 138 S.E. 206, 210, 164 Ga. 204; *Hoffman v. Franklin Motor Car Co.*, 32 Ga.App. 229, 122 S.E. 896, 900. “The” house means only one house. *Rocci v. Massachusetts Acc. Co.*, 222 Mass. 336, 110 N.E. 972, 973, Ann. Cas. 1918C, 529.

Combining 3. and 4., one could say that:

- a) if it is not “The [particular] **people** [that were admitted]”, then it is **not “The State”** as one of the several States, incorporated into the Union, where the Constitution of the United States of America applies;
- b) if it is not “The territory”, then it is **not “The State”** as one of the several States;
- c) if it is not “The government”, then it is **not “The State”** as one of the several States;
- d) if it is not “The combined idea”, then it is **not “The State”** as one of the several States.

This gives rise to the possibility of **two kinds** of people, **two kinds** of territory and **two kinds** of government, with the same names, *seemingly* in the same place!

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## FACTS

5. **NOT “The government”**: So, when Article I, Section 10 of the Constitution of the United States of America says, “No State shall . . . make any Thing but gold and silver Coin a Tender in Payment of Debts”, it must mean that what we see around us today as a state, which **NEVER** uses gold and silver Coin as a Tender in Payment of Debts, is, therefore, as a Constitutional matter, **NOT one of the several States**, incorporated into the Union, to which the Constitution applies.

One place this is confirmed is by the Court of Appeals of Kansas, in *Allen v. Craig*, 1 Kan.App.2d 301, 564 P.2d 552, (1977) where Craig was the County Treasurer of Johnson County, Kansas:

“The refusal of the treasurer to accept plaintiff’s silver dollars on a basis other than dollar for dollar and acceptance by her of federal reserve notes for payment of taxes did not violate Article I, Section 8, of the Constitution of the United States. Such conduct of the treasurer is not state action . . . (emphasis added)

If the County is not a subdivision of the State, then, **What is it?**

**TAKE NOTICE:** If this is **NOT “The government”** then there is no relationship of allegiance between Me and it. It, whatever “it” is, cannot and does not provide the protection of a sovereign to Me and therefore cannot claim obedience from Me.

6. **NOT “The government”**: SINCE what we see around us as a state **NEVER** uses gold and silver, what it **DOES** use for payment of debts is Federal Reserve Notes, i.e. negotiable instruments, i.e. commercial paper.

The Supreme Court has held over and over again that:

When the United States enters into contract relations, its rights and duties therein are governed generally by the law applicable to contracts between private individuals. *Lynch v. United States*, 292 U.S. 571, 580 (A.D. 1934)

When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. *Perry v. United States*, 294 U.S. 330, 352 (1935)

If [government] comes down from its position of sovereignty, and enters the domain of commerce, it submits itself to the same laws that govern individuals there. *Cooke v. United States*, 91 U.S. 389, 399 (A.D. 1875)

[T]he requirement that the Government unequivocally waive its sovereign immunity is satisfied here because, once the United States waives immunity and does business with its citizens, it does so much as a party never cloaked with immunity. *Franconia Associates et al. v. United States*, 536 U.S. 129, 130 (A.D. 2002) (emphasis added)

The United States as drawee of commercial paper stands in no different light than any other drawee. *Clearfield Trust Co. v. United States*, 318 U.S. 363, 369 (A.D. 1943)

When government descends into commerce, it waives its sovereign character. In other words, it is not operating in its sovereign capacity; it is just like any other commercial actor. **It is like Sears Roebuck & Co.**

This commercial actor is NOT one of the several States of the Union.

**TAKE NOTICE:** If this is **NOT “The government”** then there is no relationship of allegiance between Me and it. It, whatever “it” is, cannot and does not provide the protection of a sovereign to Me and therefore cannot claim obedience from Me.

7. **NOT “The government”**: The Constitution of Nevada (October 31, 1864), (Nevada, as admitted to the Union) ARTICLE VI – Judicial Department, Sec. 18, says: The Style of all process shall be “The State of Nevada,” and all prosecutions shall be conducted in the name and by the authority of the same.

Prosecutions today are **NEVER** done in the style, “The State of Nevada”, as the particular Nevada admitted as one of the several States. All “prosecutions” today are done in the style “STATE OF NEVADA”. It makes sense that either a) these are not true “prosecutions” or b) the

actor prosecuting is not the State that the Constitution applies to. Further, the “authority” at the top of all “state” “government” stationary is “STATE OF NEVADA”.

**TAKE NOTICE:** If this is **NOT “The government”** then there is no relationship of allegiance between Me and it. It, whatever “it” is, cannot and does not provide the protection of a sovereign to Me and therefore cannot claim obedience from Me.

8. **NOT “The territory”:** The “Driver’s License” issued by the “Department of Motor Vehicles” (in what passes for Nevada) as identification shows that you live in a location called “NV”, and not Nevada, one of the several States.

**TAKE NOTICE:** If this is **NOT “The territory”** then there is no relationship of allegiance between Me and it. It, whatever “it” is, cannot and does not provide the protection of a sovereign to Me and therefore cannot claim obedience from Me.

9. **NOT “The territory”:** a) The purported “Nevada Revised Statutes” comprise approximately 18,000 pages;

b) The term “in this state” appears *throughout* the Nevada Revised Statutes approximately 5,000 times in every possible context; i.e., these statutes regulate conduct that occurs “in this state”.

c) The term “in this state” is defined only once in the Nevada Revised Statutes, at NRS 372.030:  
**NRS 372.030 “In this State” and “in the State” defined.** “In this State” or “in the State” means within the exterior limits of the State of Nevada and includes all territory within these limits owned by or ceded to the United States of America.

d) This NRS definition of “in this State” has **no relation** to the meaning of “state” given in *State of Texas*, as people, territory, or government; there is no reference to “citizens, occupying a territory of defined boundaries, and organized under a government”. NRS 372.030 speaks only of “territory . . . that has been ceded” “within the exterior limits” of the State;

e) Legal analysis of this definition of “in this State” yields 1) only federal territory 2) within a boundary;

f) In substance, “in this State” means **federal territory**, west of Utah, south of Idaho and east of California.

It appears that conduct that is statutorily required or prohibited “in this state” specifies a place that is **not** “within” Nevada, as one of the several States, where the Constitution of Nevada applies, but instead is “without” the territory that is Nevada, which was admitted as a State, where the Constitution of the United States of America applies.

**TAKE NOTICE:** If this is **NOT “The territory”** then there is no relationship of allegiance between Me and it. It, whatever “it” is, cannot and does not provide the protection of a sovereign to Me and therefore cannot claim obedience from Me.

10. **NOT “The People”:** The community of “U.S. citizens”, that are “resident” within the State, are not members of “the people” of Nevada. They are “resident” [aliens] (having direct and immediate allegiance to a foreign government).

**This:**

The words “people of the United States” and “citizens” [of the States] are synonymous terms, and mean the same thing. They both describe the political body who, according to our

republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the “sovereign people,” and every citizen is one of this people, and a constituent member of this sovereignty. *Dred Scott v. Sanford*, 60 U.S. 393, 405 (1856) (bracketed text added)

is not the same as **This:**

The persons declared [by the 14<sup>th</sup> Amendment] to be citizens [of the United States] 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. *Elk v. Wilkins*, 112 U.S. 94, 102 (A.D. 1884) (emphasis and bracketed text added)

**plus This:**

[regarding] citizens of the United States . . . it is evident that they have not the political rights which are vested in citizens of the States. They are not constituents of any community in which is vested any sovereign power of government. Their position partakes more of the character of subjects than of citizens. They are subject to the laws of the United States, but have no voice in its management. If they are allowed to make laws, the validity of these laws is derived from the sanction of a Government in which they are not represented. Mere citizenship they may have, but the political rights of citizens they cannot enjoy . . . *People v. De La Guerra*, 40 Ca. 311, 342 (1870) (emphasis and bracketed text added)

**TAKE NOTICE:** If this is **NOT “The people”** then there is no relationship of allegiance between Me and it. It, whatever “it” is, cannot and does not provide the protection of a sovereign to Me and therefore cannot claim obedience from Me.

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