



"Before and After the Civil War"

by

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June 29, 2004 A.D.

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As a direct result of the decision in Dred Scott v. Sandford, blacks were officially considered property and not Citizens, due to apartheid proven to exist in the U.S. Constitution and in many other laws at that time.

The holding in that decision was that a black slave was not a Citizen of Missouri and, therefore, he had no standing to petition for Habeas Corpus relief.

The decision was correct, but luminaries like Abraham Lincoln, a practicing lawyer at the time, chose to criticize the decision, rather than to work for the solution which C.J. Taney expressed so clearly (paraphrasing):

"If you find this apartheid result offensive, then the procedure for amending the Constitution is available to you in Article V. But, don't look to the Supreme Court to amend that Constitution, because we have no authority whatsoever to do so."

Now, the solution that is obvious, using 20/20 hindsight, was a proposal to amend the U.S. Constitution as follows:

"The status of Citizen of the United States of America shall not be denied or abridged by the United States, or by any State, on account of race."

It is quite possible that, if such an amendment had been proposed immediately after the Dred Scott decision in 1856, the Southern States would have seen the writing on the wall, and might have worked out a peaceful solution to Emancipation of all black slaves, perhaps over some transition period.

But, this simple solution escaped the lawyers of that era, like Lincoln, and a horribly bloody Civil War intervened.

Immediately after that Civil War, all States, including also the Southern States, voted to ratify an Amendment prohibiting all slavery and involuntary servitude.

The lawyers then huddled and convinced the rest of the world

that this Thirteenth Amendment may have freed the black slaves, but it did NOT grant them any kind of citizenship; and that additional legislation would be required in order for them to acquire any rights of citizens, like the right to enter contracts.

Instead of using the simple language we present above, a group of Radical Republicans led by Thaddeus Stevens decided that a second class of citizens would solve the problem, as long as that second class were legally defined as subjects of the District of Columbia -- thus placing all newly defined "*federal*" citizens under federal jurisdiction first and foremost (or "*primary and paramount*" as the courts have ruled).

Thus was born the 1866 Civil Rights Act -- a federal municipal law which could and should have used the term "*federal citizen*", instead of trying to steal the terminology already found in the Qualifications Clauses of the U.S. Constitution -- but with one small yet terribly significant change that was hardly noticed:

"Citizen" was changed to "citizen"

Anyone who bothers to read the Dred Scott decision will find quite a few references to "*municipal*" law, and this is the key to understanding the 1866 Civil Rights Act.

Insofar as Lincoln failed to read and understand the entire decision (and it remains one of *the* longest in the history of American constitutional jurisprudence), he was deprived of these pivotally important lessons in federal municipal law.

And, it should have been clear to everyone who joined this debate at that time, that the Congress cannot amend the U.S. Constitution either. Accordingly, the Qualifications Clauses were NOT being amended by that Act, because Congress cannot amend the U.S. Constitution, period! These Clauses are immensely significant, because they define who is eligible to become voting members of the House and Senate, and who is eligible to occupy the Office of the President. And, they have *never* been amended.

Not long after that Act, Congress then proposed the infamous Fourteenth amendment: at best, that proposal was merely declaratory of existing law and, even if it had been properly ratified, it never could have "created" federal citizenship, because that second class of citizens had already been created by the 1866 Civil Rights Act (the *existing* law), two years earlier.

If you know where to look, courts have already ruled that the so-called Fourteenth amendment did not "create" federal citizenship. It could never have "created" it, because federal citizenship already existed, beginning in 1866.

Another subtlety here is that, being federal *municipal* law which created a second class of citizens domiciled in D.C., the 1866 Civil Rights Act could never have extended State Citizenship to blacks, because D.C. has never joined the Union, and it can not join the Union as long as the federal government has exclusive jurisdiction there. Again, a constitutional amendment would be required to allow D.C. to join the Union as another Union State on an equal footing with all other States.

Another way of proving that this Act created a second class of citizens is to confirm a second privileges and immunities clause in the so-called 14th amendment (lower-case "p" and lower-case "i").

If blacks had been given State Citizenship, first and foremost, they would automatically have acquired protection under the organic Privileges and Immunities Clause at 4:2:1 (UPPER-CASE "P" and UPPER-CASE "I"), which had already protected all State Citizens beginning on June 21, 1788 A.D. -- the day the U.S. Constitution first became Law -- and continuing right up to the present time.

In summary, then, Congress chose to create a second class of citizens for newly freed blacks, rather than to propose a simpler amendment. A simpler amendment would have solved the problem created by the Dred Scott decision, *i.e.* by extending State Citizenship to blacks as well as whites without all the extra baggage that was later introduced by the so-called 14th amendment, and without foisting on America legislation which has generated an immense amount of litigation due to its lack of clarity and now obvious ambiguities (*e.g.* "United States" has 3 meanings in law, all different).

Unfortunately, the language which Congress did choose has also created an immense amount of confusion and controversy, because the term "citizens of the United States" sounds exactly the same as the first class of State Citizens, who are identified in the Qualifications Clauses as "Citizens of the United States". The ONLY textual difference between these two terms is the capitalization, or lack thereof, in the third letter of the English alphabet.

Finally, on authority of the Utah Supreme Court in

Dyett v. Turner, decided in 1968, we now know that the so-called 14th amendment was never properly ratified. It is perhaps no coincidence that this court decision was issued exactly 100 years after the so-called 14th amendment was merely "declared" into Law in 1868 A.D.

Accordingly, it is now correct to say that there is no constitutional authority for the proposition that federal citizens are also Citizens of the State in which they may "reside". Given the utter frequency with which Congress has re-defined the term "State" -- over a very long period of time after Eisner v. Macomber -- it should come as no surprise that the "State residency" to which that failed amendment refers is more accurately described as another feature of the giant ruse it originally intended.

Why? Because the Supreme Court has officially recognized a "*state within a State*", as if this were a perfectly acceptable fiction that would be understandable to the entire population; but, more confusion and deception were the inevitable result of such deliberately devious language.

Thus, the original proposal to amend the U.S. Constitution with the so-called 14th amendment should be declared null and void, *ab initio*, for deliberate vagueness, pursuant to the Void for Vagueness Doctrine that is founded on the Sixth Amendment. Remember, now, as of 1871, the U.S. Constitution was expressly extended into D.C. That had the intended effect of applying the Nature and Cause Clause of that Amendment to all federal municipal laws, and even proposals to amend the Constitution.

However, deliberate vagueness is fraud, and it is high time America slapped the hands of corrupt lawmakers in Congress who continue to sustain such frauds, long after they have been thoroughly exposed.

Sincerely yours,  
/s/ Paul Andrew Mitchell