UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Barbara Ann Martin **Petitioner**	{}	
VS.	{}	**CA No. H-96-2563**
United States of America, et al **Respondents:**	{}	

FIRST AMENDMENT TO SUPPLEMENTAL MEMORANDUM ON CLASSES OF CITIZENSHIP IN SUPPORT OF PETITIONER'S REQUEST FOR DECLARATORY JUDGMENT OF CITIZENSHIP

TO THE HONORABLE JUDGE OF SAID COURT

Comes now, Barbara Martin, Petitioner, appearing specially and not generally, in propria persona, sui juris, speaking for herself, and all her interests, hereby enters the following points and authorities pertaining to classes of citizenship which are intended to Specifically Supplement and support the Petitioner's Request for Declaratory Judgment of Citizenship filed with the 240th District Court of Fort Bend County, Texas on the 10th day of February, 1995, A.D.

The primary questions addressed herein are as follows:

1.

1. To whom pertains the original Common Law **de jure citizenship** of the Constitution of the United States;
2. Whether that de jure citizenship was **destroyed** with the **advent** of the **Fourteenth Amendment**; and
3. Whether the **de facto**, an **artificial citizenship created by the Fourteenth Amendment** may be imposed upon those who are of the original **de jure citizenship without their full knowledge and consent.**

2.

The following discussion of citizenship addresses questions of a gravity and magnitude that should be of deep interest to all who have an interest in justice. The mere discussion of such questions will affect many and will bring to light much in the way of previously widely held fallacies which have long been used in the service of corruption. The intent of this discussion is to seek justice for the Petitioner by making the subject a topic of serious discussion and requesting the solemn judgment of this Honorable Court. Therefore, the Petitioner, being a free white de jure citizen

pursuant to the organic law, the Constitution for the united States of America, would show this Honorable Court the following;

POINT NO. 1.

THE DECLARATION OF INDEPENDENCE (1776) AND THE ORIGINAL CONSTITUTION FOR THE UNITED STATES (1787) AND IT'S BILL OF RIGHTS (1791) ARE THE ORGANIC LAW OF THIS NATION

1.

The founding law of this nation is the perpetual authority upon which the continued existence of the nation itself is predicated. As such, the founding law carries universal authority and cannot be overthrown nor subverted in it's existence without repudiating the very existence of the nation established thereby.

2.

ORGANIC LAW. The fundamental law, or ***constitution*** of a state or nation, written or unwritten, that law or system of laws or principles which defines and establishes the organization of it's government. ***St. Louis v. Dorr, 145 Mo. 466 at 478; 46 SW 976, 42 LRA 686, 68 Am St. Rep. 575. (Black's Law Dictionary, 4th Edition,West Publishing (1968) Pg. 1251, Black's Law Dictionary, 5th Edition, West Publishing (991) Pg. 991,***

Black's Law Dictionary, 6th Edition, West Publishing (1990) Pg. 1099.

3.

"The authority of the organic law is universally acknowledged, it **speaks** the **sovereign will** of **the people**. It's injunction regarding the process of legislation is as authoritative as are those touching the substance of it." ***South Stat. Const. 44, note 1,*** "This Constitution... shall be the **supreme Law of the land...**" ***Article VI, clause 2, Constitution of the United States (1787).***

4.

"That **the people** have an **original right** to **establish**, for **their** future **government**, such principles as, in **their opinion**, shall most **conduce** to **their own happiness** is the basis on which the whole American fabric has been erected. The exercise of this **ORIGINAL RIGHT** is a very great exertion; nor can it, nor ought it to be frequently repeated. The principles, therefore, so established are deemed fundamental. And as the authority, from which they proceed, is supreme and can seldom act, they are designed to be **permanent**.

5.

This **original** and **supreme will** organizes the government, and

assigns to different departments their respective powers. It may either stop here, or establish certain limits not to be transcended by those departments.

6.

The government of the United States is of the latter description. The powers of the legislature are **defined** and **limited**, and that those **limits** may **not be mistaken or forgotten**, the **constitution** is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing; if these limits may, at any time, be passed by those intended to be be restrained? The distinction between a government with limited and unlimited power is **abolished**, if those limits do not confine the **persons** on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested, that the **constitution controls** any legislative act repugnant to it; or that the legislature may alter the **constitution** by an **ordinary act**.

7.

Between these alternatives there is no middle ground. The **constitution** is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and like other **acts**, is alterable when the legislature shall please to alter it.

8.

If the former part of the alternative be true, then a legislative act contrary to the constitutuion is not law; if the latter part be true, then **written constitutions are absurd attempts**, on the part of the **people** to limit a power, in it's own nature illimitable.

9.

Certainly, all those who have framed written constitutions contemplate them as forming the **fundamental** and **paramount law** of the nation, and consequently the theory of every such government must be, that an **act of legislature repugnant to the constitution, "is void"...** If then the courts are to regard the ***constitution***; and the ***constitution*** is superior to any ordinary act of the legislature; the ***constitution***, and not such ordinary act, **must govern the case to which they both apply.**

10.

Those then who controvert the principle that the ***constitution*** is to be considered, in court, **as a paramount law**, are reduced to the necessity of maintaining that courts must close their eyes on the ***constitution***, and see only the law." ***Marbury v. Madison, 5 U.S. 137 (U.S.Dist.Col. 1803) 1 Crunch 237, 176 to 178***

Point No. 2

THE ORGANIC LAW AND THE UNION FOUNDED THEREON IS PERPETUAL

1.

The ***Preamble*** to the ***Constitution*** for the united States declares the intent and purpose of the convenient. "**We the People** of the united States, in order to form a more perfect union, establish Justice, insure domestic Tranquillity, provide for the common defense, 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**." (***Preamble***) **United States Constitution (1787).**

2.

Justice Story, in his Commentaries on the ***Constitution***,expounded on the importance and purpose of the ***Preamble.*** **"The importance of examining the Preamble, for the purpose of expounding the language of a statute, has been long felt, and universally conceded in all judicial discussions. It is an admitted maxim in the ordinary course of the administration of justice, that the *preamble* of a statute is a key to open the mind of the makers, as to the mischiefs, which are to be remedied**

and the objects which are to be accomplished by the provisions of the statute. We find it laid down in some of our earliest authorities in the common law, and civilians are accustomed to a similar expression, **cessante legis praemio, cessat et ipsa lex."** (The reason of the law ceasing, the law itself also ceases.) "Probably It has a foundation in the expression of every code of written law, from the universal principle of interpretation, that the will and intention of the legislature are to be regarded and followed. It is properly resorted to where doubts or ambiguities arise upon the words of the enacting part; for if they are clear and unambiguous, there seems little room for interpretation, except in cases leading to an obvious absurdity, or to a direct overthrow of the intention expressed in the ***Preamble."*** ***Commentaries on the Constitution of the United States. Joseph Story, Vol 1., (1970) at page 338.***

3.

With the authority of Justice Story then, we examine the wording of the ***Preamble*** as to the Union. The Union spoken of in the ***Preamble*** is apparently the one declared in the ***Declaration of Independence*** **(1776)** and organized in accordance with "***certain articles of Confederation* and *Perpetual Union between the States of...***"

4.

Texas v. White, 74 U.S. 700, 19 L.Ed. 227, 7 Wall 700, **(U.S.Tex. 1868)** ***at 724,*** "The Union of the States never was a purely artificial and arbitrary relation. It began among the Colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interest, and geographical relations. It was confirmed and strengthened by the necessities of war, and received definite form, and character and sanction from the ***Articles of Confederation***. By these the Union was solemnly declared to 'be **perpetual**.' And when these ***articles*** were found to be inadequate to the exigencies of the country, the ***Constitution*** was ***ordained*** 'to form a more perfect Union.' It is difficult to convey the idea of indissoluble unity more clearly than by these words. **What can be indissoluble, if a perpetual Union made more perfect is not ?**

5.

But the perpetuity and indissolubility of the Union, by no means implies the loss of distinct and individual existence, or of the right of self-government by the States. Under the ***Articles of Confederation*** each state retained it's sovereignty, freedom and independence, and every power, jurisdiction, and right not expressly delegated to the United States. Under

the Constitution, though the powers of the States were much restricted, still, all powers not delegated to the United States, nor prohibited to the States, are reserved to **the States** respectively, **or to the people**. And we have already had occasion to remark at this term, that the **people** of each State compose a **State**, having it's own government, and endowed with all the functions essential to separate and independent existence,' and that' **without the States in union, there could be no such political body as the United States.** Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States, and the maintenance of their governments, are as much within the design and care of the ***Constitution*** as the preservation of the Union and the maintenance of the National government. The ***Constitution***, in all it's provisions, looks to an **indestructible Union, composed of indestructible States**.

6.

When, therefore, Texas became one of the united States, she entered into an indissoluble relation. All the obligations of perpetual union and **all the guarantees of republican government in the Union**, attached at once

to the State. The act which consummated her admission into the Union was something more than a compact; it was the incorporation of a new member into the political body. And it was final. The Union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union between the original States. There was no place for reconsideration, or revocation, except through revolution, or through consent of the States." ***Texas v. White, 74 U.S. 700, 19 L.Ed. 227, 7 Wall., at pages 724 to 726 (1868)*** Similarly, the term **"establish"**, as used in the ***preamble***, means to fix perpetually;

7.

A. STAB'LISH...

3. To enact by authority and for permanence...

4. To settle or fix; to confirm...

5. To make firm; to confirm; to ratify what has been previously set or made. Do we than make void the law through faith? God forbid; yea, we establish the law.

ROM. iii

An American Dictionary of the English language. Noah Webster (1818), reprinted by Foundation for American Christian Education.

(1967)

ESTABLISH: This word occurs frequently in the ***Constitution*** of the United States, and it is there used in different meanings:

1. To settle firmly, to fix unalterable; as to establish justice, which is the avowed object of the ***Constitution***...

2. To settle or fix firmly; place on a permanent footing; create; put beyond dispute; prove; convince... ***(Black's Law Dictionary, 4th Edition., supra, West Publishing (1968), at page 642, Black's Law Dictionary, 5th Edition, West Publishing (1979), page 490. Black's Law Dictionary, 6th Edition (1990), page 546.)***

8.

Thus, if the Union spoken of is perpetual, then so too the founding Law upon which that Republic Union was predicated in the first place and so also the **de jure citizenship** created thereby.

POINT NO. 3

THE CONSTITUTION WAS ORDAINED, NOT BY THE STATES, BUT BY THE PEOPLE OF THE STATES, WHO, AS THE CREATORS, WERE AND ARE THE SOVEREIGN

1.

"The ***Constitution*** of the United States was ordained and established, not by the States in their sovereign capacities, but **emphatically**, as the ***preamble*** of the ***Constitution*** declares, by '**THE PEOPLE** of the United States.' ***Martin v. Hunter's Lessee, 14 U.S. 304 (U.S. Virginia 1816), 1 Wheat 304, at 324 (1814)***

2.

"The Government of the Union, then is, emphatically and truly, a **government of the people**. In form, and in substance, it emanates from them. **Its powers are granted by them,** and are to be exercised directly on on them, and **for their benefit**." ***M'Culloch v. Maryland, 17 U.S. 316 (U.S.Md. 1819) 4 Wheat 316, at 404 & 405 (1819)***

3.

"We have already had occasion, in considering the nature of the ***Constitution***, to dwell upon the terms in which the ***preamble*** is conceived, and the proper conclusion deducible from it. **It is an act of the people**, and **not of the States** in their political capacities. It is an ordinance or establishment of government, and ***not a compact***, though originating in

consent; and it binds as a **fundamental law** promulgated by the **sovereign authority**, and not as a compact or treaty entered into and in fieri, between each and all the citizens of the United States, as distinct parties. The language is: '**We, the people of the United States,**' **(not**, We, the States,) '**do ordain and establish**, (not, do contract and enter into a treaty with each other) 'this Constitution for the United States of America' (**not** this treaty between the several states). And it is, therefore, an unwarrantable **assumption, not to call it a most extravagant stretch of interpretation**, wholly at variance with the language, to substitute other words and other senses for the words and senses incorporated, in this solemn manner, into the substance of the instrument itself.

4.

We have the strongest assurances that this ***preamble*** was not adopted as a mere formula, but as a solemn promulgation of a fundamental fact, vital to the character and operations of the government. The obvious object was to substitute a government of the people for a confederacy of the States; a ***constitution*** for a compact. The difficulties arising from this source were not slight; **for a notion** commonly enough, however **incorrectly**, prevailed, that, **as** it was ratified by the States only, the States respectively at their

pleasure might repeal it; and this, of itself, proved the necessity of laying the **foundations** of a National Government **deeper** than in the mere santion of delegated power. The convention determined that the fabric of the American empire ought to rest and should rest on the solid basis of the consent of the **people**. The streams of national power ought to flow and should flow immediately from the highest original fountain of all legitimate authority. And accordingly, the advocates of the ***Constitution*** so treated it in their reasoning in favor of it's adoption. 'The ***Constitution***,' said the Federalist, 'is to be founded on the assent and ratification of the **people** of America, given by deputies elected for that purpose; but this assent and ratification is to be given by the people, not as individuals composing a whole nation, but as composing the distinct and independent states to which they belong.' And the uniform doctrine of the highest judicial authority has accordingly been, that it was the act of the people, and not of the States; and that it bound the latter, as **SUBORDINATE to the PEOPLE**.' 'Let us turn,' said Mr. Chief Justice Jay, 'to the ***Constitution***. The people therein declare that their design in establishing it comprehended six objects: 1. To form a more perfect union; 2. to establish justice; 3. to insure domestic tranquillity; 4. to provide for the common defense; 5. to

promote the general welfare; 6. to secure the blessings of liberty to **THEMSELVES** and **THEIR POSTERITY**. It would,' he added, 'be pleasing and useful to consider and trace the relations which each of these objects bear to the others, and to show that, collectively, they comprise every thing requisite, with the blessing of **Divine Providence**, to render a people prosperous and happy." ***Commentaries, Story, at pages 340, 341***

5.

"The words '**people of the United States**' and '**citizens**' 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. The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word "**Citizens**," in the ***Constitution***, and can therefore claim none of the rights and privileges which that instrument provides for and secures to

citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of being who had been subjugated by the dominate race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

6.

It is not the province of this court to decide upon the justice or injustice, the policy or impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty and framed the ***Constitution***. The duty of the court is to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to it's **true intent and meaning when it was adopted**." ***Dred Scott v. Sanford, 60 U.S. 393, 19 Howard 393, (U.S.Mo. 1856) at pages 404 & 405.***

POINT NO. 4

WE THE PEOPLE WERE AND ARE ONE PEOPLE OF ONE FAITH

1.

The ***Declaration of Independence*** declares the grievances and justification of **ONE PEOPLE** necessitating their separation from another. It calls upon the **Law of God**, the laws of nature and **nature's God**, as justification for that separation, and asserts **THEIR INALIENABLE RIGHTS**, and natural station as having been endowed upon **them** by **their Creator**. The document concludes with the invocation, " ..with a firm reliance on the protection of **Divine Providence, we mutually pledge** to each other **our lives, our fortunes** and **our sacred honor**."

2.

Similarly, the ***Preamble*** to the Constitution of the United States designates the Citizenship of the united States and **declares it to be by the RIGHT OF BLOOD**, with the words, to **OURSELVES** and **OUR POSTERITY**. The **ONE PEOPLE**, of the ***Declaration of Independence*** are **WE THE PEOPLE** of the ***Preamble***. **WHO then** were the men who **FRAMED and RATIFIED** this ***Constitution***? **OF WHAT RELIGIOUS PERSUASION** were they and **OF WHAT RACE WERE THEY?** So that we might know to whom the words **OURSELVES** and **OUR POSTERITY** **pertain,** this list of the framers is as follows:

George Washington
President and deputy from Virginia

New Hampshire

Josiah Bartlett
William Whipple
Matthew Thornton
James Smith
James Wilson
George Taylor
George Ross

Connecticut

William Williams
Roger Sherman
Samuel Huntington
Oliver Wolcott

South Carolina

Edward Rutledge
Thomas Heyward
Thomas Lynch
Arthur Middleton

Massachusetts

Samuel Adams
John Adams
Robert Treat Paine
Eldridge Gerry

New York

William Floyd
Philip Livingston
Francis Lewis
Lewis Morris

Delaware

George Read
Caesar Rodney
Thomas M. Kean

New Jersey

Richard Stocton
John Witherspoon
Francis Hopkinson
John Hart
Abraham Clark

Maryland

Samuel Chase
William Paca
Thomas Stone
Charles Carroll, of Carrolton

Georgia

Button Gwinnell
Lyman Hall
George Walton

Pennsylvania

Benjamin Franklin
Robert Morris
Benjamin Rush
John Morton
George Clymer

Virginia

George Wythe
Richard Henry Lee
Thomas Jefferson
Benjamin Harrison
Thomas Nelson, Jr.
Francis Lighfoot Lee
Carter Braxton

North Carolina

William Hooper
Joseph Hewes
John Penn

Rhode Island & Providence

Stephen Hopkins
William Ellery

Attest: William Jackson: Secretary

The **framers** were one and all of the **WHITE RACE** and **CHRISTIAN FAITH**, and their **RESPECTIVE CONSTITUENCIES** were **LIKEWISE** composed. This explains the words **"TO OURSELVES"** and Illuminates the phrase "**AND OUR POSTERITY**".

POSTERITY: All the **DESCENDANTS** of a person in a **direct line** to the **REMOTEST generation**. ***Black's Law Dictionary, 5th Edition, page 1050, Black's Law Dictionary, 6th Edition, page 1166.***

3.

"The last clause in the ***Preamble*** is to 'secure the blessings of Liberty to **OURSELVES** and **OUR POSTERITY**.' And surely no object could be more worthy of the wisdom and ambition of the best men in any age. If there be any thing which may justly challenge the admiration of all mankind, it is that **sublime patriotism** which, looking beyond it's own times

and its own fleeting pursuits, aims to secure the permanent happiness of **POSTERITY** by laying the broad foundations of government upon **immovable principles** of justice. Our affections, indeed, may naturally be presumed to outlive the brief limits of our own lives, and to repose with deep sensibility upon **our own immediate descendants**. But there is a noble disinterestedness in that forecast which disregards present objections for the sake of all mankind, and **erects structures to protect, support, and bless the most distant generations**." Commentaries, Story, Supra, at page 368, vol. 1.

4.

"It is very clear, therefore, that no State can, by any act or law of it's own, passed since the adoption of the Constitution, introduce a new member into the political community created by the ***Constitution*** of the united States. It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who were not intended to be embraced in this new political family, which the ***Constitution*** brought into existence, but were intended to be excluded from it." ***Dred Scott v. Sanford, supra. at page 406.***

5.

"It is true, every person, and every class and description of persons, who were at the time of the adoption of the ***Constitution*** recognized as **Citizens in the several States,** became also **Citizens of the New Political Body; but NONE OTHER;** It was **formed by THEM, and for THEM and THEIR POSTERITY,** but for **no one else**, and the personal rights and privileges **guaranteed** to **Citizens** of this new **sovereignty** were intended to embrace those only who were then members of the several State communities, or who should afterwards, by **birthright** or otherwise become members, according to the provision of the ***Constitution*** and principles upon which it was founded. It was the union of those who were at that time members of **distinct and separate political communities into one political family**, whose power, for certain specified purposes, was to extend over the whole territory of the united States. And it gave to each Citizen rights and privileges **outside his State** which he did not before possess, and placed him within every other State upon a perfect equality with it's own Citizens as to rights of person and rights of property; it made him a Citizen of the united States."

Dred Scott v. Sanford, Supra. at page 406 & 407

6.

"The brief Preamble sets forth by whom it was formed, for what purposes, and for whose benefit and protection. It declares that it is formed **by the people** of the united States; that is to say, by those who were members of the different political communities in the several States; and it's great object is declared to be to secure the blessings of liberty to **THEMSELVES and THEIR POSTERITY**. It speaks in general terms of the **people of the united States**, and of **Citizens of the several States**, when it is providing for the exercise of powers granted or the privileges secured to the Citizen. It does not define what description of persons are intended to be included under these terms, or who shall be regarded as a citizen and one of the People. It uses them as terms so well understood, that no further description or definition was necessary." ***Dred Scott v. Sanford, supra at pages 410 & 411.***

7.

In the view of the founding fathers, the political realm was regarded as a mere reflection or extension of the religious. For, in fact, **all law is a direct expression of the prevailing religion upon which the state is founded**. There is no such thing as a secular state and religion is the great

state-building principle. The American colonists created a **NEW State** because they were already a **church**, and that **church** was the soul of the state created. The fathers held as **divine doctrine** that governments were made for the benefit of the governed, and **NOT** for that of the governors, who were to regard themselves as the servants of **GOD**, appointed for the **benefit** of **HIS people**. The prosperity and happiness of the Nation was seen to be a direct outcome of it's **religion** and ruin was inevitably seen to follow vice and sin. The first line of instruction then was that **religion follows government and morality follows religion.**

8.

The second and consequential line of instruction was that the first duty of government was to **support**, **teach** and **practice** the **Religion of the Nation**, by public recognition and honor paid to it in the outward forms of it's worship, and by **using it** as the groundwork of the **education** of the **people**; and by putting a social stigma upon all deviation from it. It was widely believed that failure to adhere to these principles would inevitably lead to the destruction of the State. It would lead to the tendency of men to follow the mode of life of the court and those socially above them. The religion of the ruling class would rapidly spread

to the lower strata of social life; while simultaneously an opposite current would develop amongst the people, who in their earnest desire to preserve the faith of their fathers, would separate themselves from the constituted authorities, and make the destruction of authorities the devouring passion of their lives, even if such destruction involved the ruin of the Nation. In opposition to them, the apostate of skeptically indifferent governors became step by step, savage persecutors, and called foreign allies to assist in suppressing the old National Faith, which alone, they find themselves unable to suppress. Thus, it was held that the Nation would become divided into two parties, whose objects are not the defense of the country, but the extermination of each other. In it's destruction, the land falls prey to it's enemies, with all the horrors of the national degradation and personal slavery to follow. This was the prevailing view of history, law and religion at the time the "**American Republic**" was founded, and subsequently for at least it's first one-hundred years of existence. The organic law completely embodied these principles, for it was wholly based upon the same authority that taught them. It is **the Christian Bible**. "**Christianity, general Christianity**, is and always has been a part of the common law of Pennsylvania; ...not Christianity with an established church,

tithes and spiritual courts; but Christianity with liberty of conscience to all men." ***Updegraph v. The Commonwealth, 11 Sergeant & Rawle, Pennsylvania Supreme Court Reports 400.***

9.

"The people of this State, in common with the people of this country, profess the general doctrines of Christianity as the rule of their faith and practice; and to scandalize the author of these doctrines is not only, in a religious point of view, extremely impious, but, even in respect to the obligations due to society, it is a gross violation of decency and good order... The free, equal, and undisturbed enjoyment of religious opinion, whatever it may be, and free and decent discussions on any religious subject, is granted and secured, but to revile, with malicious and blasphemous contempt, the religion professed by almost the whole community is an abuse of that right. Nor are we bound by any expressions in the ***constitution***, as some have strangely supposed, either not to punish at all, or to punish indiscriminately the like attacks upon the religion of Mohammed or of the Grand Lama; and for this plain reason, that the case assumes that we are **Christian people**, and the **morality of the country is deeply engrafted upon Christianity**, and not upon the doctrines of worship of those

impostors." ***The People v. Ruggles, 8 Johnson New York Common Law Reports 290, at pages 294 & 295.***

10.

These declarations are neither dissonant nor unique, for they speak the universal language pervading the judicial authorities. **They affirm and reaffirm that this is a religious nation, founded upon the CHRISTIAN FAITH.** These are not individual sayings or declarations of private persons, they are organic utterances. They speak the voice of the entire people. I quote Chief Justice **John Marshall (1801-35)** who wrote that since the American people were entirely Christian, then:

> "It would be strange indeed, if with such a people, our institutions did not presuppose **Christianity**, and did not often refer to it, and exhibit relations with it." ***Joseph Story and the American Constitution, J. McCellen, at page 139, Oklahoma Univ. Press (1971) (Letter of John Marshall to Jasper Adams, May 9, 1833)***

"**Christianity, general Christianity,** is and always has been a part of the Common Law of Pennsylvania..." ***Updegraph V. The Commonwealth, 11 Sergeant & Rawles Pennsylvania Supreme Court Reports 400.***

11.

Likewise, **Justice Story (1810-45)** commented extensively upon the National Faith and it's embodiment in the **First Article of the Bill of Rights (1791):** "How far any government has a right to interfere in matters touching religion has been a subject much discussed by writers upon public and political law. The right and the duty of the interference of government in matters of religion have maintained by many distinguished authors, as well as those, who were the warmest advocates of free governments as those who were attached to governments of a more arbitrary character. Indeed, the right of a society or government to interfere in matters of religion will hardly be contested by any persons who believe that piety, religion, and morality are intimately connected with the well being of the State,and indispensable to the administration of civil justice. The promulgation of the great doctrines of religion, the Being, and attributes, and providence of **one Amighty God**; the responsibility to Him for all our actions, founded upon moral freedom and accountability; a future state of rewards and punishments; the cultivation

of all the personal, social, and benevolent virtue;-these never can be a matter of indifference in any well ordered community. It is, indeed, difficult to conceive how any civilized society can well exist without them. And in all events, it is impossible for those who believe in the truth of Christianity, as a divine revelation to doubt that it is the especial duty of government to foster and encourage it among all the citizens and subjects. This is a point wholly distinct from that of the right of private judgment in matters of religion, and of the freedom of public worship according to the dictates of one's own conscience." ***Commentaries, Story, supra. Vol III, pages 722 and 723.***

12.

"Now, there will probably be found few persons in this or any other Christian country, who would deliberately contend that it was unreasonable or unjust to foster and encourage the **Christian** religion generally as a matter of sound policy as well as of revealed truth. In fact, every American colony, from its foundation down to the revolution, with the exception of Rhode Island, if, indeed, that State be an exception, did openly, by the whole course of its laws and institutions, support and sustain in some form the **Christian** religion; and almost invariably gave a peculiar sanction to some of its

fundamental doctrines. And this has continued to be the case in some of the States down to the present period, without the slightest suspicion that it was against the principle of public law or republican liberty. Indeed, in a republic, there would seem to be a peculiar propriety in viewing the Christian religion, as the great basis on which it must rest for its support and permanence, if it be, what it has ever been deemed by its truest friends to be, the religion of liberty. Montesquieu has remarked that the Christian religion is a stranger to mere despotic power....Massachusetts, while she has promulgated in her Bill of Rights the importance and necessity of the public support of religion and the worship of God has authorized the legislation to require it only for Protestantism. The language of that Bill of Rights is remarkable for its pointed affirmation of the duty of government to support Christianity and reasons for it. "As", says the third article, "the happiness of the people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality, and as these cannot be generally diffused through the community, but by the institution of the public worship of God, and of public institutions in piety, religion and morality; therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with

power to authorize and require, and the legislature shall from time to time, authorize and require, the several towns, parishes, &c., to make suitable provision at their own expense for the institution of the public worship of God, and for the support and maintenance of public ***Protestant*** teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily. Afterwards, there follow provisions, prohibiting any superiority of one sect over another, and securing to all citizens the free exercise of religion. Probably at the time of the adoption of the ***Constitution***, and of the amendment to it now under consideration, the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state so far as was not incompatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions, and make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation. [1]...

13.

But the duty of supporting religion, and especially the Christian religion, is very different from the right to force the consciences of other men or to punish them for worshipping God in a manner which they believe that

their accountability to his requires----Mr. Locke himself, who did not doubt the right of government to interfere in matters of religion, and especially to encourage Christianity, at the same time has expressed his opinion of right of private judgment and liberty of conscience in a manner becoming his character as a sincere friend of civil religious liberty. "No man, or society of men," says he, "have any authority to impose their opinions or interpretations on any other, the meanest Christian; since, in matters of religion, every man must know, and believe, and give account for himself." ***Commentaries, supra, Vol. III, at page 724 & 727.***

14.

And Justice Story goes on to say that the First Article of Amendment sanctioned Christianity only and none other. "The real object of the Amendment was not to continence, much less to advance Mahometanism, or Judaism or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to an hierarchy the exclusive patronage of the national government. It thus cut off the means of religious persecution (the vice and pest of former ages), and of the subversion of the rights of conscience in matters of religion which had been trampled upon almost from

the days of the Apostles to the present age." ***Commentaries, Story, supra, Vol. III, at page 728***

15.

Christianity, as the embodiment of the **law of God**, was and is of the **Common Law** of both **England** and the **American Republic**. "It appears to have been long perfectly settled by the **Common Law**, that blasphemy against the Deity in general, or a malicious and wanton attack against the **Christian** religion individually for the purpose of exposing its doctrines to contempt and redicule, is indictable and punishable as a temporal offense.." Lord Mansfield says, "The eternal principles of natural religion are part of the **Common Law**; the essential principles of revealed religion are part of the **Common Law**; so that any person reveling, subverting or ridiculing them, may be prosecuted at **Common Law**"... ***The State v. Chandler, 2 Del. 553, at page 555 and 556 (1837)***

16.

"It was part of the **Common Law**, 'so far that any person reviling, subverting or ridiculing it might be prosecuted at **Common Law**,' as Lord Mansfield has declared; "because, in the judgment of our English ancestors and their judicial tribunals, he who reviled, subverted or riduculed

Christianity, did an act which struck at the foundation of their civil society and tended by its necessary consequences as they believed, to disturb that common peace of the land of which (as Lord Coke had reported) the **Common Law** was the preserver. ....To sustain the soundness of their opinion, their descendants point us to the tears and blood of revolutionary France during the reign of terror, when infidelity triumphed and the abrogation of the **Christian** faith was succeeded by the worship of goddess of reason, and they aver that without this religion no nation has ever yet continued free. They insist too, that all history demonstrates that no nation without the light of their **Common Law**, has been able to preserve any system of rational and well regulated liberty." **Ibid, at 557 to 558**

17.

"Long before Lord Hale decided that Christianity was a part of the Laws of England, the Court of Kings Bench.... had gone so far as to declare, that "in almost all cases, the **Common Law was grounded on the law of God,** which it said was causa causans," and the court cited the 27th chapter of Numbers, to show that their judgment on a **Common Law** principle in regard to the law of inheritance, was founded in **God's** revelation of that law to Moses." **Ibid, at 561.**

18.

"What then are the well established principles of the **Common Law** applicable to the present case? The distinguished commentator on the laws of England informs us that upon the foundation of the law of nature and the law of revelation all human laws depend. ***1 Bl. Com. 42*** The municipal law looks to something more than merely the protection of lives, the liberty and the property of the people. Regarding **Christianity** as part of the law of the land, it respects and protects its institutions, and assumes likewise to regulate the public morals and decency of the community." ***Bell v. The State, 1 Swan (Tenn) 43 & 44 (1851)***

19.

"Every system of law known to civilized society generated from or had as its compliment one of three well known systems of ethics, pagan, stoic, or Christian. The **Common Law** draws it's subsistence from the latter, its roots go deep into that system, the Christian concept of right and wrong, or right and justice motivates every rule of equity. It is the guide by which we dissolve domestic frictions and rule by which all legal controversies are settled." ***Strauss v. Strauss, 3 So.2d 72, at 728 [6] (1911)***

20.

"By the **Common Law** and by the **Bible**, which is the **foundation** of the **Common Law,...**" ***Wylly v. Collins, 9 Ga. 223 at 237 [7] (1851)***

21.

Christianity defined the limits of the **Republic** and expressed the **morality and justification upon** which it was predicated, as a natural genetic expression of the **race** that comprised.

22.

"But beyond all these matters, no purpose of action against religion can be imputed to any legislation, State or National, because this is a **religious people**. This is historically true. From the discovery of the continent to the present hour, there is a single voice making this affirmation. The commission of Christopher Columbus, prior to his sail Westward, is from Ferdinand and Isabella, by the grace of God, King and Queen of Castle," etc.., and recites that "it is hoped that by God's assistance some of the continents and islands in the ocean will be discovered," etc.., "The first colonial grant, that made to Sir Walter Raleigh in 1584, was from Elizabeth, by the grace of God, of England, France and Ireland, Queene, defender of the faith," etc.., and the grant authorizing him to enact statutes of the government of the proposed

colony provided that 'they be not against the true **Christian** faith, nowe professed in the Church of England.' The first charter of Virginia, granted by King James I, in 1606, after reciting the application of certain parties for a charter, commenced the grant in these words; We, greatly commending, and graciously accepting of, their Desires for the Furtherance of so noble a Work, which may, by the Providence of **Almighty God**, hereafter tend to the Glory of his divine Majesty, in propagating of **Christian** Religion to such People, as yet live in Darkness and miserable Ignorance of the true knowledge and worship of **God**....Language of similar import may be found in the subsequent charters of the colony.... in 1609 and 1611.... In language more or less emphatic is the establishment of the **Christian** religion declared to be one of the purposes of the grant. The Celebrated Compact made by the Pilgrims in the Mayflower, 1620, recites: 'Having undertaken for the Glory of **God**, and Advancement of the **Christian** Faith, and the Honor of our King and Country, a voyage to plant the first colony in the northern parts of Virginia; .....The fundamental orders of Connecticut, under which a provisional government was instituted in 1638 to 1639... In the charger of privileges granted by William Penn to the province of Pennsylvania in 1701... the **Declaration of Independence** recognizes... If we examine the constitutions of the various

States, we find in them a constant recognition of religion obligations. Every constitution of every one of the forty-four States contains language.... Even the Constitution for the United States... **These, and many other matters which might be noticed, add a volume of unofficial declarations to the mass of organic utterances that this is a CHRISTIAN Nation."** ***Holy Trinity v. United States, 12 S.Ct. 511 at 514 to 517, 143 U.S. 465 to 472 (1892). Also see Vidal v. Mayor, 43 U.S. 127, 2 How. 127***

POINT NO. 5

THE DE JURE CITIZENSHIP OF THE ORGANIC LAW PERTAINS SOLELY TO FREE WHITE DE JURE STATE CITIZENS

1.

"It becomes necessary, therefore, to determine **who were Citizens** of the several States when the ***Constitution*** was adopted. In order to do this, we must recur to the Governments and Institutions of the thirteen colonies, when they separated from Great Britain and formed **new Sovereignties**, and took their places in the family of independent nations. We must inquire who, at that time, were recognized as the **People** or **Citizens** of a State, whose rights and liberties had been outraged by the **English Government**; and **who** declared **their independence,** and assumed the powers of Government to

defend **their rights by force of arms.**

2.

"In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the **class of persons** who had been imported as **slaves, nor their descendants, whether they had become free or not**, were then acknowledged as a part of the people, **nor intended to be included** in the general words used in that memorable instrument." ***Dred Scott v. Sanford, supra, page 407.***

3.

"We give both of these laws in the words used by the respective legislative bodies, because the language in which they are framed, as well as the provisions contained in them, show, too plainly to be misunderstood, the degraded condition of this unhappy race. They were still in force when the Revolution began, and are a faithful index to the state of feeling towards the class of persons of whom they speak, and of the position they occupied throughout the thirteen colonies, in the eyes and thoughts of the men who framed the Declaration of Independence and established the State Constitutions and Governments. They show that a perpetual and impassable

barrier was intended to be erected between the **white** race and the one which they had reduced to slavery, and governed as subjects with absolute and despotic power, and which they then looked upon as so far below them in the scale of created beings, that intermarriages between white persons and negroes or mulattos were regarded as unnatural and immoral, and punished as crimes, not only in the parties, but in the person who joined them in marriage. And no distinction in this respect was made between the free negro or mulatto and the slave, but this stigma, of the deepest degradation, was fixed upon the whole race.

4.

We refer to these historical facts for the purpose of showing the fixed opinions concerning that race, upon which the statesmen of that day spoke and acted. It is necessary to do this, in order to determine whether the general terms used in the ***Constitution*** of the United States, as to the rights of man and the rights of the people, was intended to include them, or to give to them or their posterity the benefit of any of its provisions.

THE LANGUAGE OF THE DECLARATION OF INDEPENDENCE IS EQUALLY CONCLUSIVE

5.

It begin by declaring that, '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 nature's God entitle them, a decent respect for the opinion of mankind requires that they should declare the causes which impel them to the separation.' It then proceeds to say; '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 them is life, liberty and the pursuit of happiness; that to secure these rights, Governments are instituted, deriving their just powers from the consent of the governed.'

6.

The general words above quoted would seem to embrace the whole human family, and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted this declaration; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the ***Declaration of Independence*** would have been utterly

and flagrantly inconsistent with the principles they asserted; and instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation.

7.

Yet, the men who framed this declaration were great men--high in literary acquirements,--high in their sense of honor, and incapable of asserting principles inconsistent with those on which they were acting. They perfectly understood the meaning of the language they used, and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which, by common consent, had been excluded from civilized governments and the family of nations, and doomed to slavery. They spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day, and no one misunderstood them. The unhappy black race were separated from the white by indelible marks, and laws long before established, and were never thought of or spoken of except as property, and when the claims of the owner or the profit of a trader were supposed to need protection.

8.

This state of public opinion had undergone no change when the

Constitution was adopted, as is equally evident from its provisions and language." ***Dred Scott v. Sanford, supra, 409 and 410.***

9.

"To all this mass of proof we have to add, that Congress has repeatedly legislated upon the same construction of the **Constitution** that we have given. Three laws, two of which were passed almost immediately after the Government went into operation, will be abundantly sufficient to show this. The two first are particularly worthy of notice, because many of the men who assisted in framing the ***constitution,*** and took an active part in procuring it's adoption, were then in the halls of legislation, and certainly understood what they meant when they used the words 'people of the united States' and 'Citizen' in that well considered instrument.

10.

The first of these acts is the naturalization law, which was passed at the second session of the first Congress, March 26, 1790, and confines the right of becoming citizens 'to aliens being free white persons'... But the language of the law above quoted, shows that **Citizenship** at that time was **perfectly understood** to be confined to the **white race**; and **they alone** constituted the **sovereignty** in the Government....Another of the early laws of which we have

spoken, is the **first militia law**, which was passed in 1792, at the first session of the second Congress. The language of this law is equally plain and significant with the one just mentioned. It directs that every '**free able-bodied white male Citizen**' shall be enrolled in the militia....

11.

The third act to which we have alluded is even still more decisive; it was passed as late as 1813..... and it provides; 'that from and after the termination of the war in which the united States are now engaged with Great Britain, it shall not be lawful to employ on board of any public or private vessels of the United States, any person or persons except citizens of the United States, or persons of color, natives of the United States. Here the line of distinction is drawn in express words. Persons of color, in the judgment of Congress, were not included in the word citizens, and they are described as another and different class of persons, and authorized to be employed, if born in the united States." ***Dred Scott v. Sanford, supra, at pages 419 and 412***

12.

Numerous other authorities also support the foregoing points as to the character of the **de jure Citizenship** established by the ***Constitution*** and the complete disabilities placed upon persons of color as regards their status if

born under the jurisdiction and allegiance of the United States, are natives, and not aliens. They are what the **Common Law** terms natural born subjects...

13.

"The better opinion, I should think, was, that Negroes or other slaves, born within and under the allegiance of the united States, are natural-born subjects, but not **Citizens**. **Citizens**, under our ***Constitution*** and laws, mean free inhabitants, born within the United States, or naturalized under the law of Congress." ***Commentaries on American Law, James Kent, 7th Edition, Vol. II, at pages 275 to 278***

14.

"But birth will not confer these advantages upon a Negro or an Indian. If so, a man may acquire, by the accident of birth, what the government itself has no right to grant. No negro, or descendant of negroes is a citizen of the Union, or of any of the States. They are mere "sojourners in the land," inmates, allowed usually by tacit consent, sometimes by legislative enactment, certain specific rights. **Their status**, and that of the **citizen is not the same.** ***Vattel, book 1, Sec. 213*** But the clause of the Constitution in question, applies to citizens, not to sojourners or inmates." ***State v.***

Clairborne, 1 Meig's Rep. page 331, at 334

15.

"It results, then, that the plaintiff can not have been a citizen, either of Pennsylvania or of Virginia, unless she belonged to a class of society, upon which, by the institutions of the States, was conferred a right to enjoy all the privileges and immunities appertaining to the State. That this was the case, there is no evidence in the record to show, and the presumption is against it. Free negroes and mulattos are, almost everywhere, considered and treated as a degraded race of people; inasmuch so, that, under the ***Constitution*** and laws of the United States, they can not become citizens of the United States." ***Amy v. Smith, 1 Litt. Ky.R. 326, at 334***;

16.

Please take note that the above opinions characterize nonwhite as being sojourners and inmates in the land. These strangers were forever barred by the **organic** law from attainment of the **de jure Citizenship**. No matter how long they and their descendants might reside in the land, their presence was regarded by the law as temporary. Though they reside upon the land, such could never be sanctioned by the **Common Law** as inhabitants and thereby obtain allodial title to it.

"Again, according to a well settled principle of the Common Law, now in force, none but Citizens can hold our lands." ***Amy v. Smith, supra, at page 339***; The land is held and vested in the sovereignty of the Republic. One who is not of that sovereignty can never attain to permanent possession, thereof transferable to his own posterity. "A result of this doctrine was, that when lands were claimed by descent, the capacity to take **MUST** have ancestor.... Having no transmitting by descent, as the freehold cannot be kept in abeyance, without any Inquest of office, it escheated and vested in the sovereign on the death of the alien, or when the ancestor died not leaving an heir capable of taking by descent. The law, which nihil facit fruotra, will give no estate which it does not enable the donee to keep. The capacity of the appellees to take the premises in controversy by descent must be determined by law as it existed in 1859. If they had capacity then, however it may have been enlarged by subsequent laws, such laws cannot operate retrospectively to divest an estate in lands which then vested in the State. Or, if it did not vest in the State, was in abeyance from the death of the ancestor, without a tenant, and without seisin, until the capacity of the appelles was enlarged. At the death of the ancestor, they were not citizens of the united States, nor

were they, so far as any relation they could have with other States,citizens of Ohio. They were merely residents of that State, entitled to whatever right or privilege the law of the State guaranteed them.

18.

Such rights or privileges could at any moment have been withdrawn by Ohio, and without any positive violation of law, or any offense by the appellees, their continuous residence could have been forbidden. Their condition was peculiar and anomalous. It resulted from the mode in which their ancestors were originally introduced into this country, and the condition of inferiority and subordination to the dominant race to which the law consigned them. They were not aliens, but natives, born within the domination of the government. They were inhabitants and subjects of the State, bound to obey it's laws, subject to it's burdens and entitled to protection in person, in life and liberty and property, so long as their residence was permitted. The status they bore was entirely derived from the permission or grace of the State in residence. It was a species of denization dependent on the donation of the State." ***Dred Scott v. Sanford, 60 U.S. 393, 19 Howard 393.***

19.

"We cannot hold that one who is incapable of residence, or of acquiring citizenship here, can take lands by descent. One of the reasons, and perhaps that of greatest force now, which prevented an alien from taking lands at **Common Law**, was 'because an interest in the soil requireth a permanent allegiance, which would probably be inconsistent with that he oweth to his own natural liege or lord'.. ***1 Bac. Ab. 201***. The reason why lands descending to an alien could not be taken by him, was that 'the King could not oblige his person and services.' ***Iib. 203***. The man who cannot become subject to the laws of the State, amenable to the jurisdiction of it's courts, cannot be obliged to the services of residence or **Citizenship**--cannot be a freeholder. The freeholder was the liber homo of the **Common Law**, to whom the guarantees of Magna Charter extended, and if the lord gave an estate to a man and his heirs, he made the tenant a freeman, if he had not been so before." ***1 Wash. on Real Prop. 29, 45.***

20.

"To constitute a perfect title there must be the union of actual possession, the right of possession, and the right of property. These several constituent parts of title may be divided and distributed among several

persons, so that one of them may have the possession, another the right of possession, and the third the right of property. Unless they all be united in one and the same party there cannot be that consolidated right (that jus duplicatum, or the droit droit, or the jur proprietatis et possessions) which, according to the ancient English law, formed a complete title, ***4 Kent 411***. 'A title is thus defined by Lord Coke; Titulus est justa causa possidendi id quod nostrum est; or, it is the means whereby the owner of lands hath the just possession of his property.' ***2 Black, 103***. Thus, we see the right of possession is an essential element of a freehold estate. An incapacity to take and hold such possession is of necessity inconsistent with it's existence. If this estate had devolved on the appellees, they could never have entered in possession, nor could they have conveyed to another the right of entry, because it was not in them to convey. We concur in the argument of the learned counsel for appellant, that the law does nothing vain or useless, and that it would have been an absurdity to cast on the appellees the descent of the premises, and yet have said to them, if you come to hold and enjoy, it is at the peril of becoming felons and punishable as such." ***Donovan v. Pitcher, 53 Ala. 411, at page 416 to 417***

21.

Further light may be had at this point by considering the definition of the term Droit:

> **DROIT-DROIT**. A double right; that is, the right of possession and the right of property. These two rights were, by the theory of ancient law, distinct; and the above phrase was used to indicate the concurrence of both in one person, which concurrence was necessary to constitute a complete title to land. ***Mozlet & Whitley, Black's Law Dictionary, supra, at pg. 586, Black's Law Dictionary, sixth Edition, at pg. 496***

Of further note in the foregoing opinion is the declaration as to the status of the Appellees who were persons of color. They are characterized by the court as subjects and what privileges they may have had were entirely dependent upon the grace of the State. They did not then, nor do they now, possess, as a matter of title, absolute Constitutional Right."

22.

"The American colonies brought with them the Common, and not the civil

law; and each State, at the Revolution,adopted either more or less of it, and not one of them exploded the principle, that the place of birth conferred Citizenship." ***Amy v. Smith, supra, at pg 337 to 338*** "Hence I conclude, that every white person at least, born within the united States, whether male or female, is, by birth, a citizen, within the meaning of our ***Constitution***; and as such, has rights secured by it..." ***Amy v. Smith, supra, at page 341***

23.

Further evidence as to the truthfulness of the foregoing is provided by the opinion of the ***Attorney General of the united States, one William Witz, in an opinion dated November 7, 1821:***

24.

"I presume that the description, citizen of the united States," used in the ***Constitution***, has the same meaning that it has in the several acts of Congress passed under the authority of the **Constitution**; otherwise there will arise a vagueness and uncertainty in our laws, which will make their execution, if not impracticable, at least extremely difficult and dangerous. Looking to the **Constitution** as the standard of meaning, it seems very manifest that no person is included in the description of citizen of the United States who has not the full rights of a Citizen in the State of his residence.

Among other proofs of this, it will be sufficient to advert to the **Constitutional** provision, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Now, if a person born and residing in Virginia, but possessing none of the high characteristic privileges of a citizen of the State, is nevertheless a citizen of Virginia in the sense of the **Constitution**, then, on his removal into another State, he acquires all the immunities and privileges of a Citizen of that other State, although he possessed none of them in the State of his nativity: a consequence which certainly could not have been in the contemplation of the convention. Again: the only qualification required by the Constitution to render a person eligible as President, senator or representative of the United States, is that he shall be a "citizen of the United States" of a given age and residence. Free Negroes and mulattos can satisfy the requisitions of age residence as well as the white man; and if nativity, residence and allegiance combined, (without the rights and privileges of a white man,) are sufficient to make him a "citizen of the united States" in the sense of the Constitution, then free negroes and mulattos are eligible to those high offices, and may command the purse and the sword of the Nation.

For these and other reasons, which might easily be multiplied, I am of the opinion that the **Constitution**, by the description of "**citizen** of the united States," intended those only who enjoyed the full and equal privileges of **white Citizens** in the State of their residence. If this be correct, and if I am right also in the other position that we must affix the same sense to this description when found in an act of Congress, as it manifestly has in the **Constitution** then free people of color in Virginia are not **citizens of the United States** in the sense of our shipping laws, or any other laws, passed under the authority of the federal **constitution**; for such people have very few of the privileges of the Citizens of Virginia.

1. They can vote at no election, although they may be freeholders.
2. They are incapable of any office of trust or profit, civil or military.
3. They are not competent witness against a white man in any case, civil or criminal.
4. They are not enrolled in the militia, are incapable of bearing arms, and are forbidden even to have in their possession military weapons, under the penalties of forfeiture and whipping.
5. They are subject to severe corporal punishment for raising their

hand against a white man, except in defense against a wanton assault.

6. They are incapable of contracting marriage with a white woman, and the attempt is severely punished.

26.

These are some only of the incapacity's which distinguished them from the **white Citizens** of Virginia; but they are, I think, amply sufficient to show that such persons could not have been intended to be embraced by the description, **"citizens of the united States**, in the sense of the ***constitution*** and acts of Congress. The allegiance which the free man of color owes to the State of Virginia, is no evidence of **Citizenship**; for he owes it not in consequence of any oath of allegiance. He is not required or permitted to take any such oath; The allegiance which he owes is that which a sojourning stranger owes the mere consequence and return for the protection which he receives from the laws..." ***Opinions of the Attorneys General, Vol. 1, pages 506-508***

27.

"But as the laws of the United States do not now authorize any but a white person to become a citizen, it marks the national sentiment upon the

subject, and creates a presumption that no state had made persons of colour citizens..... And as it respects Virginia, we know that free people of colour have never been considered or treated, either in the practice of the country or by the laws of the State, as possessing the rights and privileges of Citizens." ***Amy v. Smith, supra, at page 334***

The marginal note on the same page gives further insight into the meaning of the passage just quoted;

> "Prior to the adoption of the ***Constitution*** of the United States, each state had a right to make **citizens** of any persons they pleased; but as the federal ***Constitution*** does not authorize any but white persons to become **citizens** of the united States, it furnishes a presumption that none other were then **citizens** of any State; which presumption will stand, until repelled by positive testimony."

28.

The foregoing cumulative testimony as to the original basis of the

Constitution is attested to by multitudes of authorities in the old books. From the lowest justice of the peace to the highest judicial officers in the land, they all ring as one voice declaring the eternal foundations of the American Republic to be the twin citadels of one race and one faith. I quote the speech of U S. Senator Robert H. Toombs of Georgia in Boston, in 1856, as to the inevitable consequences of trespassing upon the ***Preamble*** and altering the **POSTERITY** of **FREE WHITE**. "Therefore, so far from being a necessary and proper means of executing granted powers, it is an arbitrary and despotic usurpation, against the letter, the spirit, and the declared purposes of the Constitution; for it's exercise neither "promotes a more perfect union, nor establishes justice, nor insures domestic tranquillity, nor provides for the common defense, nor promotes the general welfare, nor secures the blessings of liberty to **OURSELVES** and **OUR POSTERITY**", but, on the contrary, puts in jeopardy all these inestimable blessings. It loosens the bonds of union, seeks to establish injustice, disturbs domestic tranquillity, weakens the common defense, and endangers the general welfare by sowing hatreds and discords among our people, and puts in eminent peril the liberties of **the white race, by whom and for whom the *Constitution* was made," A Constitutional view of the Late War Between the States, Stevens,**

National Publ. Vol. I at page 632.

POINT NO. 6

THE COMMON LAW CITIZENSHIP OF THE STATE OF TEXAS IS LIKEWISE FREE WHITE

1.

As previously discussed under Point Number One, the creating and founding law of the State is the **perpetual authority** upon which the continued existence thereof, as a part of the **perpetual** union, is justified. The **organic law** of the **State of Texas** includes not only the **original** ***Constitution*** of the **State of Texas (1845)**, but the ***Constitution*** **of the Republic of Texas (1836)**, as well. This is firstly, because of Texas' prior existence as an independent and sovereign Republic for ten years previous to joining the union. Texas never existed as a territory of the united States. Secondly, **Citizenship** of the State of Texas was predicated upon prior **Citizenship** in the Republic when Texas joined the union. This and certain other provisions in the 1845 ***Constitution*** **GUARANTEED** the continuing authority of the **FOUNDING LAW ORDAINED** by the **PEOPLE OF TEXAS** in **1836.** Thirdly, the ***Constitution*** of the State of Texas was ordained and established by the **PEOPLE** of the **REPUBLIC of TEXAS** with specific reservation that they had the unalienable right to alter, reform or

abolish their form of government. Thus, the ***Constitution*** of the **REPUBLIC of TEXAS** was **NEVER RESCINDED** or **REVOKED**, but merely held in abeyance and the original ***Constitution*** of the **State of Texas (1845)**, and all subsequent ***Constitutions***, are fundamentally intertwined therewith.

2.

The foundation of the State began with the various Anglo colonization contracts for colonization of the territory and the subsequent documents and declarations setting forth the political, cultural and religious grievances of the **Anglo American** population against the tyranny of the Mexican government. Chief among these and primary to a discussion of the organic **Citizenship** in the **Republic of Texas**, is the **Declaration of Independence** made by the **DELEGATES** of the **PEOPLE of Texas** in General Convention, at Washington, on March 2, 1836. It begins as follows:

3.

"When a government has ceased to protect the lives, liberty and property of the people, from whom its legitimate powers are derived, and for the advancement of whose happiness it was instituted; and so for from being a guarantee for their inestimable and inalienable rights, becomes an instrument in the hands of evil rulers for their oppression: When the federal

republican ***Constitution*** of their country, which they have sworn to support, no longer has a substantial existence, and the whole nature of their government has been forcibly changed, without their consent, from a restricted federative republic, composed of sovereign States, to a consolidated central military despotism, in which every interest is disregarded but that of the army and the priesthood, both the eternal enemies of civil liberty, the ever ready minions of power, and the usual instruments of tyrants....When, in consequence of such acts of malfeasance and abduction on the part of the government, anarchy prevails, and civil society is dissolved into it's original elements, in such a crisis, the first law of nature, the right of self preservation, the inherent and inalienable right of the people to appeal to first principles, and take their political affairs into their own hands in extreme cases, enjoins it as a right towards themselves, and a sacred obligation to **THEIR POSTERITY,** to abolish such government, and create another in its stead,calculated to rescue them from impending dangers, and to secure their welfare and happiness...The Mexican government, by its colonization laws, invited and induced the Anglo American population of Texas to colonize its wilderness under the pledged faith of a written ***constitution***, that they should continue to enjoy that ***constitutional*** liberty and republican government to

which they had been habituated in the land of their birth, the United States of America." The resort to the right of self preservation is central to the justification presented and the pointed reference to the "Anglo American population of Texas" identifies **WHO** the **DELEGATES** in convention represented, **WHO** the **PEOPLE of TEXAS** were, who "**THEIR POSTERITY**" was, and who the **SELF** was, in the **SELF PRESERVATION**. The further reference to the "constitution liberty and republican government" habituated to them in their native united States also serves to restrict the indemnification of the declarants since, as previously documented herein, in the land of their nativity only **FREE WHITE PERSONS** had a right to claim constitutional liberty and republican government. The Declaration states further that, in regard to the Mexican Government; "It had demanded us to deliver up our arms, which are essential to our defense--the rightful property of freemen--and formidable only to tyrannical governments. It has invaded our country both by sea and by land, with the intent to lay waste our territory, and drive us from our homes; and now a large mercenary army advancing, to carry on against us a war of extermination.

4.

...These, and other grievances, were patiently borne by the **people of Texas**, until they reached that point at which forbearance ceases to be a virtue. We then took up arms in defense of the national ***constitution***. We appealed to our Mexican brethren for assistance; our appeal has been made in vain; though months have elapsed, no sympathetic response has yet been heard from the interior. We are, therefore, forced to the melancholy conclusion, that the Mexican people have acquiesced in the destruction of their liberty, and the substitution therefore of a military government; that they are unfit to be free, and incapable of self government. The necessity of self-preservation, therefore, now decrees our eternal political separation." ***Laws of Texas, Vol 1, page 1063***.

5.

The Declaration cites a war of extermination being waged by the Mexican government against the Anglo American population of Texas, distinguishes between Anglo and the Mexican population, concludes that they are unfit to be free, and incapable of self government, and once more cites the right and necessity of self preservation as justifying the eternal political separation thus declared. The ***Constitution of the Republic of Texas*** was

adopted on March 17, 1836, and it's brief Preamble declares it's intent and purpose;

6.

"The undersigned, Plenipotentiaries from the Republic of Texas to the United States of America, respectfully present to the American People the unanimous Declaration of Independence, made by the People of Texas in General Convention, on the 2nd day of March, 1836; and, also, the Constitution framed by the same body."

7.

"**The people of Texas**" identifies **who** formed the government, and they are the same **Anglo** American colonist in the Declaration of Independence, to **ourselves and our posterity** identifies who the intended recipients of the blessings of liberty were to be and **fixes the Citizenship** to that class and them alone and no other. The ***Constitution*** itself further defines, indicates and restricts Citizenship in the Republic in Section 10, under the heading of **General Provisions**;

8.

"**Section 6.** All free white persons who shall emigrate to this republic, and who shall, after a residence of six months, make oath before

some competent authority that he intends to reside permanently in the same, and shall swear to support this ***constitution***, and that he will bear true allegiance to the Republic of Texas, shall be entitled to all the privileges of citizenship.

Section 9. All persons of color who were slaves for life previous to their emigration to Texas, and who are now held in bondage, shall remain in the like state of servitude, provided the said slave shall be the bonafide property of the person so holding said slave as aforesaid. Congress shall pass no laws to prohibit emigrants from the United States of America from bringing their slaves into the republic with them, and holding them by the same tenure by which such slaves were held in the united States; nor shall congress have power to emancipate slaves; nor shall any slave holder be allowed to emancipate his or her slave or slaves without the consent of Congress, unless he or she shall send his or her slave or slaves without the limits of the republic. No free person of African decent, either in whole or in part, shall be permitted to reside permanently in the republic, without the concent of Congress, and the importation or admission of Africans or negroes into this Republic, excepting from the united States of America, is forever prohibited, and

declared to be piracy.

Section 10. All persons, (Africans, the descendants of Africans, and Indians excepted,) who were residing in Texas on the day of the ***Declaration of Independence***, shall be considered Citizens of the Republic, and entitled to all the privileges of such...." ***Laws of Texas, Vol. 1, pages 1069 to 1080***

9.

Texas joined the union in 1845. The ***Joint Resolution*** giving the consent of the existing government to the annexation of Texas to the united States was approved by the ***Ninth Congress of the Republic of Texas*** on ***June 23, 1845.***

10.

The Constitution of the State of Texas was drafted and ratified by **FREE WHITE** people of the ***Republic of Texas***, who made the guarantee of perpetual liberty to the **WHITE Citizens** of the soon to be, State of Texas. Texas was admitted to the **American union** under the provisions of the federal ***Constitution*** on an equal footing with the States already in the union. Therefore, ***Texas' Constitution*** would have had to designate the same race of people and the same class of **Citizenship** of it's people, (that the existing

States had designated as the sovereign body) to be admitted into the union. See ***Dred Scott v. supra, at page 407***

11.

The Constitution of the State of Texas was adopted by the convention of the **DEPUTIES of the PEOPLE of Texas** on August 27, 1845. Once again, the ***Preamble*** thereto declares it's intent and purposes and whom and whose authority it is **ordained** and **established**; "**WE, the PEOPLE** of the Republic of Texas, acknowledging with gratitude the grace and beneficence of God, in permitting us to make a choice of our form of Government, do in accordance with the provisions of the ***Joint Resolution*** for annexing Texas to the united States, approved March first, one thousand eight hundred and forty-five, **ordain and establish this Constitution."**

12.

It's **Citizenship** is declared and defined, in accordance with the federal ***Constitution*** and the approval of the Congress of the united States, by the following passages therefrom; **Article Third:**

"Section 1. Every **FREE WHITE** male person who shall have attained the age of twenty-one years, and who shall be a **Citizen** of the United States, or

who is at the time of the adoption of this ***Constitution*** by the Congress of the united States, a **Citizen** of the **Republic of Texas**, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he offers to vote, (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector.." ***Constitution of the State of Texas (1845), Article Third***

13.

Citizenship of both the United States and the Republic of Texas being exclusively **FREE WHITE**, then these provisions gave that same identification to the **Common Law Citizenship of the State of Texas.**

14.

"All free male persons over the age of twenty one years, (Indians not taxed, Africans and descendants of Africans excepted,) who shall have resided six months in Texas, immediately preceding the acceptance of this ***Constitution*** by the Congress of the United States, shall be deemed **qualified electors**." ***ibid, at Section 2***

No person shall be a Representative unless he be a **Citizen** of the United States, or at the time of the adoption of this ***Constitution*** a **citizen** of the

Republic of Texas, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a **Citizen** of the county, city or town for which he shall be chosen, and shall have attained the age of twenty one years, at the time of his election. ***ibid, at Section 6***

No person shall be a Senator unless he be a **Citizen** of the united States, or at the time of the acceptance of this ***Constitution*** by the Congress of the united States, a **Citizen** of the **Republic of Texas**... **ibid, at Section 11.**

The Legislature shall at their first meeting, and in the year one thousand eight hundred and forty eight, and fifty, and every eight years thereafter, cause an enumeration to be made of all the **FREE INHABITANTS** (Indians not taxed, Africans and the descendants of Africans excepted,) of the State, designating particularly the number of qualified electors;.. ***ibid, at Section 29***

15.

Kindly remember, in reading these provisions, that the **Republic of Texas** excluded from it's borders all immigrants who were not of the **WHITE race** and that the **ELECTORS** of both the **Republic** and the **State of Texas** were **required** to be **Citizens** thereof, being therefore

"**FREE WHITE**" only. The Eighth Article of the ***Constitution*** pertains to slaves and further illustrates the **Sovereignty** and **Citizenship** of Texas.

"**Section 1.** The Legislature shall have no power to pass laws for the emancipation of slaves, without the consent of their owners; nor without paying their owners, previous to such emancipation, a full equivalent in money, for the slaves so emancipated. They shall have no power to prevent emigrants to this State, from bringing with them such persons as are deemed slaves by the laws of any of the United States, as long as any persons of the same age or description shall be continued in slavery, by the laws of this State; provided, that such slave be the bonafide property of such emigrants; provided, also, that laws shall be passed to inhibit the introduction into this State, of slaves who have committed high crimes in other States or territories. They shall have the right to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to pass laws, which will oblige the owners of slaves to treat them humanely; to provide for their, necessary food and clothing; to abstain from all injuries to them, extending to life and limb; and, in case of their neglect or refusal to comply with the directions of such laws, to have such slaves taken from such owner, and sold

for the benefit of such owner or owners. They may pass laws to prevent slaves from being brought into this State as merchandise only:

Section 2. In the prosecution of slaves for crimes of a higher grade than petty larceny, the Legislature shall have no power to deprive them of an impartial trial by a petit jury.

Section 3. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted, in case the like offense had been committed upon a **FREE WHITE** person, and on the like proof, except in case of insurrection of such slave." ***Texas (1845), Article Eighth***

16.

Thus, it is obvious that the **PEOPLE** of the **Republic of Texas ORDAINED** and **ESTABLISHED** the ***Constitution*** of the **State of Texas ONLY** for men and women of **THEIR OWN RACE**. It may be truthfully stated that the State of Texas is, **IN FACT AND IN LAW**, a ***Constitution*** of the **previous Republic of Texas**, which has **NEVER** been **SUPPLANTED** or **OVERTHROWN**; the existence and authority of the State of Texas being predicated upon that of the **Republic**.

17.

In closing this discussion of the **DE JURE CITIZENSHIP** of the **State of Texas**, I need only point to the complete harmony of this ***Constitution*** to that of the union of the States.

POINT NO. 7.

THE FOURTEENTH AMENDMENT DID NOT, AND CAN NOT DESTROY THE DE JURE CITIZENSHIP

1.

One part of the ***Constitution*** cannot contradict nor overthrow another. "But it clearly results that the proposition and the contentions under it, if acceded to, would cause one provision of the Constitution to destroy another;.... This result.... would create radical and destructive changes in our **constitutional** system and multiply confusion." ***Brushaber v. Union Pacific R.R. Co., 240 1, 12***

2.

The **original** ***Constitution*** and it's ***Bill of Rights*** are exactly the same **TODAY** as they were when **ADOPTED (1787 - 1791)**. Not one word, syllable or punctuation mark has changed in all the ensuing years. Those words have the **SAME MEANING** today that they had then. They can only

be construed and extended according to their full historical meaning at the time of the adoption of the ***Constitution.*** Perpetual law, perpetual Union, the One cannot exist without the other. "We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted,...." ***Mattox v. United States, 15 S.Ct. 337, 156 U.S. 237, 243 (U.S.Kan.1895)***

In this, as in other respects, it (a constitutional provision) must be interpreted in light of the **Common Law**, the **principles** and "**history**" of which were familiarly known to the framers of the Constitution. ***Minor v. Happersett, 88 U.S. 162 21 Wall 162***

3.

"The language of the Constitution, as has been well said, could not be understood without reference to the Common Law." ***1 Kent Com. 336 Kepner v. United States, 24 S.Ct. 797, at 803; 195 U.S. 100, 126 (1904)***

4.

"The change in public opinion and feeling in relation to the African race, which has taken place since the adoption of the Constitution, cannot change its construction and meaning, and it must be construed and administered now according to its true meaning and intention when it was formed and adopted" ***Dred Scott v. Sanford, 60 U.S. 393, I, 9. (1856)***

5.

"We deal here with a classification based upon the race of the participants, which **must be viewed** in light of the "**historical fact**" the **central purpose** of the **Fourteenth Amendment** was to **eliminate racial discrimination emanating from official sources in the States.**" ***Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097, at 2107*** **(Decided June 12, 1995)**

6.

.....in the Constitution of these instruments, the following rules are usually observed.

1. The practical construction must be uniform. A ***Constitution*** does not mean one thing at one time and another at some subsequent time.

2. The object of construction is to give effect to the intent of the people in establishing the ***Constitution***. It is the intent of the lawgiver that is to be enforced. But the intent is to be found in the instrument itself. ***The General Principles of Constitutional Law, Cooly, 3rd Little Brown & Co. (1898), pages 386 to 387***

7.

Thus, the Constitution cannot be repugnant unto itself. To hold

any thing contrary is absurd. Amendments to the Constitution cannot be original law. The amendment process, pursuant to Article V, can only refine, clarify or limit the power of the government and may not infringe upon the intent of the original Constitution. It may not be used to expand the powers of the government beyond the original limits defined in the founding document.

8.

The **ORGANIC** law is not subject to change by anything less than a **NATIONAL CONVENTION** of the **PEOPLE of the States**, the **VERY SAME WHO ORDAINED and ESTABLISHED** the **Constitution** to begin with. **The PEOPLE WHO COMPRISE THE BODY SOVEREIGN are of a HIGHER SOVEREIGNTY** than the States, and **THEY**, and **THEY ALONE**, are **EMPOWERED**, by the same process used to adopt the original ***Constitution,*** to change the **ORGANIC** law.

9.

The **INTENT** of the amendment process as embodied in **Article V** was clearly defined by the **FIRST Articles of Amendments** and states in the ***Preamble*** to the ***Bill of Rights*** to wit:

"The conventions of a number of States having at the time of their

adopting the ***Constitution,*** expressed a desire, in order to prevent misconstruction or abuse of it's power, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution."

10.

The foregoing is the definitive clause to the intent and purpose of the amendment process as set forth in Article V of the ***Constitution***. That purpose and intent was further evidenced by the adopting of the Eleventh Amendment, which clarified and limited the power upon the federal judiciary by Article III of the ***Constitution***. The Thirteenth, Fourteenth and Fifteenth Amendments were a radical and unlawful departure from these principles, for they purport, at the behest of Congress, to bestow powers, not contemplated by the founding law, upon Congress. With the **Fourteenth Amendment**, Congress declared itself capable of creating it's **Own** citizens of a class and nature unique and subservient to Congress itself. These Amendments pertained solely to the non-white races and other artificial, **statutory** "**persons**" who **were** and **are** "**SUBJECTS**" of the United States and not a part of the sovereignty.

11.

"The thirteenth amendment is a great extension of the powers of the national government." ***United States v. Morris, 125 Fed. Rep. 322, 325***

12.

"We repeat then, in the light of this recapitulation of events, almost too recent to be called history, but which are familiar to us all; and on the most casual examination of the language of these Amendments, no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly made freeman and citizens from the oppressions of those who had formerly exercised unlimited dominion over him. It is true that only the Fifteenth Amendment, in terms mentions the Negro by speaking of his color and his slavery. But it is just as true each of the other Articles was addressed to the grievances of that race, and designed to remedy them as the Fifteenth.

13.

We do not say that no one else but the Negro can share in this protection. Both the language and spirit of these Articles are to have their fair

just weight in any question of construction. Undoubtedly, while Negro slavery alone was in the mind of the Congress which proposed the Thirteenth Amendment, it forbids any other kind of slavery, now or hereafter. If Mexican peonage or the Chinese Coolie labor system shall develop slavery of the Mexican or Chinese race within our territory, this Amendment may safely be trusted to make void." ***Slaughter House Cases, 83 U.S. 395 to 407***

14.

Kindly note that in listing other races who can share in this protection, the WHITE race is NOT INCLUDED.

"On the other hand, there is a significant historical fact in all this. Clearly, one of the purposes of the Thirteenth and Fourteenth Amendments and of the 1866 Act and of Section 1982, was to give the Negro citizenship..." ***Jones v. Alfred H. Mayer Co., 379 F. 2d 33, 43 [5] (1967)***

15.

"The object of the Fourteenth Amendment, as is well known, was to confer upon the colored race the right of citizenship." ***United States v. Wong Kim Ark, 18 S.Ct. 456, at 473; 169 U.S. 649 at 692 (U.S.Cal. 1898)***

16.

"It would be a remarkable anomaly if the national government, without

this amendment, could confer citizenship on aliens of every race or color, and citizenship, with civil and political rights, on the "inhabitants" of Louisiana and Florida, without reference to race or color, and can not, with the help of the amendment, confer on those of the African race, who have been born and always lived within the United States, all that this law seeks to give them." ***United States v. Rhodes, 27 Fed. Cas. 785, at 794 (1866)***

17.

"The amendment referred to slavery. Consequently the only persons embraced in its provisions, and for which Congress was by it authorized to legislate in any manner, were those then in slavery." ***Bowlin v. Commonwealth, 65 Kent. Rep. 5, at 29 (1867)***

18.

"The only question, therefore, left for determination, is the constitutionality of Section 1, of the Civil Rights Act of April 9, 1866. Nothing in the Constitution of the United States as originally adopted, or in any of the first Twelve Amendments to that instrument, adopted shortly after the ratification of the Constitution, would warrant the enactment of this act by Congress." ***United States v. Morris, 125 Fed. Rep. 322 (1903)***

19.

"It is claimed that the plaintiff is a citizen of the United States, and of this State. Undoubtedly she is. It is augured that she became such by force of the First Section of the Fourteenth Amendment, already recited. This, however, is a mistake. It could as well be claimed that she became free by the effect of the Thirteenth Amendment, by which slavery was abolished; for she was no less a citizen than she was free before the adoption of either of these amendments. **NO WHITE** person..... owes the status of citizenship to the recent amendments to the Federal Constitution. The history and aim of the Fourteenth Amendment is well known, and the purpose had in view in its adoption well understood. That purpose was to confer the status of citizenship upon a numerous class of persons domiciled within the limits of the United States, who would not be brought within the operation of the naturalization laws because native born, and whose birth, though native, had at the same time left them without the status of citizenship. These persons were **NOT** White persons, but were, in the main, persons of African descent, who had been held in slavery in this country, or, if having themselves never been held in slavery, were the native born descendants of slaves." ***Van Valkenburg v. Brown, 43 Cal. Sup. ct. 46 and 47 (1872)***

20.

Whites, being already in full possession of substantive Citizenship, were unaffected by this limited citizenship. The **adoption** of these amendments **DID NOTHING** to affect the status of **FREE WHITE** persons. They were **still Citizens** of **their respective States** and were **still exclusively members** of the **reigning body sovereign**, which status Congress **COULD NOT** confer upon **it's own newly created class of entities called citizens of the United States**.

21.

"The amendment reversed and annulled the original policy of the Constitution which left it to each State to decide exclusively for itself whether slavery should or should not exist as a local institution, and what disabilities should attach to those of the servile race within it's limits. The **WHITES** needed no relief or protection, and they are practically unaffected by the amendment." ***U. S. v. Rhodes, 27 Fed. Cas 785, 794 (1866)***

22.

"The rights of Citizens of the State, as such, are not under consideration in the Fourteenth Amendment. They stand as they did before the adoption of the Fourteenth Amendment, and are fully guaranteed by

other provisions." ***U. S. v. Anthony, 24 Fed. Cas. 829, 830 (1873)***

23.

"As appears upon the face of the Amendment, as well as from the history of the times, this was not intended to impose any new restrictions upon Citizenship, or to prevent any persons from becoming Citizens by the fact of birth within the united States, who would thereby have become Citizens according to the law existing before it's adoption." ***United States v. Wong Kim Ark, 18 S.Ct. 456, at 467; 169 U.S. 649, at 676***

24.

"It is quite clear, then, that there is a citizenship of the United States, and a Citizenship of a State, which are district from each other, and which depend upon different characteristics or circumstances in the individual.... Of the privileges and immunities of the citizens of the United States, and of the privileges and immunities of the Citizens of the State, and what they respectively are, we will presently consider, but we wish to state here that it is only the former, which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the Amendment." ***Slaughter House Cases, supra, at 408***

25.

"There can be no doubt..... that the civil rights sometimes described as **FUNDAMENTAL** and **INALIENABLE**, which before the war amendments, were enjoyed by State Citizenship and protected by State government, **were left untouched** by this clause of the 14th Amendment." ***Twining v. New Jersey, 29 S.Ct. 14, at 18; 211 U.S. 96***

26.

"After the adoption of the Thirteenth Amendment, a bill, which became the first Civil Rights Act, was introduced in the 39th Congress, the major purpose of which was to secure to the recently freed negroes all the civil rights secured to **WHITE** men. ....**None other** than citizens of the United States were within the provisions of the Act." ***Hague v. CIO, U.S. 496, at 509***

27.

The ***Constitutional*** Rights of the **WHITE** race were used as the **STANDARD** in determining the **PRIVILEGES and IMMUNITIES** of the Fourteenth Amendment citizens, however, said rights were not conveyed to them verbatim, or in total. Much, if not all, of the ***Bill of Rights*** was excluded from their access.

28.

In ***United States v. Cruikshank, 1 Woods, page 308 to 319***.....the question before the court was the constitutionality of the Enforcement Act.... which Mr. Justice Bradley declared to be unconstitutional, as an unauthorized assumption of power by Congress under the Fourteenth Amendment, but in referring to the Civil Rights Act, in this case involved, expressing the following opinion:

29.

"It was supposed that the eradication of slavery and involuntary servitude of every form and description required that the slaves should be made a citizen and placed on an entire equality before the law with the WHITE citizen, and therefore that Congress had the power, under the amendment, to declare and effectuate these objects. The form of doing this, by extending the right of citizenship and equality before the law to persons of every race and color (except Indians not taxed, and, of course, excepting the **WHITE** race, whose privileges were adopted as the **STANDARD**)..."

United States v. Morris, 125 Supra, at page 327

30.

"The privilege or immunity asserted in the Slaughter House Cases was

the freedom to pursue a common business or calling, alleged to have been infringed by a state monopoly statute. It should not be forgotten that the Court, in deciding the case, did not deny the contention of the dissenting justices that the asserted freedom was in fact infringed by State Law. It rested its decision rather on the ground that the immunity claimed was not one belonging to persons by virtue of their citizenship. "It is quite clear," the Court declared (page 74), "that there is a citizenship of the United States, and a **Citizenship of a State**, which are distinct from each other, and which depend on different characteristics in the individual." and it held that the protection of the privileges and immunities clause did not extend to those "fundamental" rights attached to state citizenship, which are peculiarly the creation and concern of the state governments, and which Mr. Justice Washington, in ***Corfield v. Coreyell, 4 Wash. C.C. 371, 6 Fed. Case. No. 3230***, mistakenly thought to be guaranteed by Article IV, Sec. 2 of the ***Constitution***. The privileges and immunities of citizens of the United States, it was pointed out, are confined to the limited class of interests growing out of the relationship between the citizen and national government created by the Constitution and federal laws.... That limitation upon the operation of the privileges and immunities clause has not been relaxed by any later decisions

of this Court." ***Hague v. C.I.O., supra, at 520, note 1***

31.

Those fundamental rights spoken of are the common law rights of free white sovereignty of the States as partially enumerated in the first eight Articles of the Bill of Rights. Those rights, being absolute and reserved to the free white sovereignty, are not secured to citizens of the United States and are not within the purview of the Fourteenth Amendment.

32.

"Upon that ground appeals to this court to extend the clause beyond the limitation have uniformly been rejected, and even those basic privileges and immunities secured against federal infringement by the first eight amendments have uniformly been held not to be protected from state action by the privileges and immunities clause... The reason for this narrow construction of the clause and the consistently exhibited reluctance of this Court to enlarge its scope has been well understood since the decision of the Slaughter-House Cases. If its restraint upon state action were to be extended more than is needful to protect relationships between the citizen and the national government, and if it were deemed to extend to those fundamental rights of persons and property attached to citizenship by the

common law and enactments of the states when the Amendment was adopted, such as were described in ***Corfield v. Coryell, supra,*** it would enlarge Congressional and judicial control of state action and multiply restrictions upon it whose nature, though difficult to anticipate with precision, would be of sufficient gravity to cause serious apprehension for the rightful independence of local government. That was the issue fought out in the Slaughter-House Cases, with the decision against enlargement." **Ibid, at 520-21, note 1.**

33.

"The observation of the Court in ***United States v. Cruikshank, 92 U.S. 542***, 551, that the right of assembly was not secured against state action by the Constitution, must be attributed to the decision in the Slaughter-House Cases that only privileges and immunities peculiar to United States citizenship were secured by the privileges and immunities clause, and to the further fact that at that time it had not been decided that the right was one protected by the due process clause." **Ibid, at 526.**

34.

"But the court added that with respect to the Fourteenth Amendment "there are certain privileges and immunities which belong to a citizen of the

United States as such; otherwise it would be nonsense for the Fourteenth Amendment to prohibit a State from abridging them,...We agree... that there are privileges and immunities belonging to citizens of the United States, in that relation and character, and that it is these and these alone which a State is forbidden to abridge." "The governments of the United States and of each of the several states are distinct from one another. The rights of a citizen under one may be quite different from those which he has under the other..." ***Colgate v. Harvey, 296 U.S. 404, at 429***

35.

"This part of the opinion then concludes with the holding that the rights relied upon in the case are those which belong to the citizens of the States as such, and are under the sole care and protection of the state governments. This conclusion is preceded by the important declaration that the civil rights therefore appertaining to citizenship of the States and under the protection of the States, were not given the security of National protection by this clause of the 14th Amendment." ***Twining v. New Jersey, 29 S.Ct. 14, at 17; 211 U.S. 78, at 94***

36.

The Fourteenth Amendment citizen has no inherent "Constitutional

right" to any of the following; **(a)** peaceable assembly, **(b)** exemption from compulsory self-incrimination, **(c)** trial by jury in both civil and criminal causes, **(d)** bear arms, **(e)** prosecution by indictment of a grand jury, and **(f)** be confronted with witnesses, among others. "The distinction between National and State citizenship and their respective privileges there drawn has come to be firmly established, and so it was held that the right of peaceable assembly for a lawful purpose... was not a right secured by the Constitution of the United States. Although it was said that the right existed before the adoption of the Constitution...an exemption from complusory self-incrimination is... a fundamental right inherent in state citizenship, and is a privilege or immunity of that citizenship only... The right of trial by jury in civil cases, guaranteed by the Seventh Amendment." **Walker v. Sauvinet**, ***92 U.S. 90***, and "the right to bear arms guaranteed by the Second Amendment. **Presser v. Illinois**, ***116 U.S. 252***, **265** have been distinctly held not to be privileges and immunities of citizens of the United States guaranteed by the Fourteenth Amendment against abridgment by the States, and in effect the same decision was made in respect to the guarantee against prosecution, except by indictment of a grand jury, contained in the Fifth Amendment ***Hurtado v. California***, ***110 U.S. 515***, and in respect of the right to be

confronted with witnesses, contained in the Sixth Amendment. ***West v. Louisiana, 194 U.S. 258***. In **Maxwell v. Dow**, supra, where the plaintiff in error had been convicted in a state court of a felony upon an information, and by a jury of eight persons, it was held that the indictment, made indispensable by the Fifth Amendment, were not privileges and immunities of citizens of the United States, as those words were used in the Fourteenth Amendment... The decision rested upon the ground that this clause of the Fourteenth Amendment did not forbid the States to abridge the personal rights enumerated in the first eight Amendments, because these rights were not within the meaning of the clause 'privileges and immunities of citizens of the United States....' We conclude, therefore, that the exemption from compulsory self-incrimination is not a privilege or immunity of National citizenship guaranteed by this clause of the Fourteenth Amendment against abridgment by the States..... it is possible that some of the personal rights safe guarded by the first eight Amendments against National action may also be safe guarded against State action, because a denial of them would be a denial of due process of law.... If this is so, it is not because those rights are enumerated in the first eight Amendments, but because they are of such a nature that are included in the conception of due process of law." **Ibid, 98 to 99**

37.

What must be added here is that the **DUE PROCESS** residing within the wording of the **Fourteenth Amendment** is in accordance with the **Roman Civil Law** and **NOT** the **Common Law**. It consists of notice and opportunity for hearing and does not require the presence of judge, jury or even a judicial **proceeding**. It **may** be administered as appropriate to the case at hand and the character of the parties thereto. "Due process requires that the court which assumes to determine the rights of parties shall have jurisdiction... and that there shall be notice and opportunity for hearing given the parties... subject to these two fundamental conditions... this court has... sustained all State laws, statutory or judicially declared, regulating procedure, evidence and methods of trial, and held them to be consistent with due process of law...

38.

Among the most notable of these decisions are those sustaining the denial of jury trial both in civil and criminal cases, the substitution of information for indictments by a grand jury, the enactment that the possession of policy slips raises a presumption of illegality, and the admission of the deposition of an absent witness in a criminal case." **Ibid, at 110 to 111**

39.

In this jurisdiction, the State determines what due process shall be allowed and the manner of it's administration; "But it is clear that the Fourteenth Amendment in no way undertakes to control the power of the State to determine by what process legal rights may be asserted or legal obligations be enforced, provided the method of procedure adopted gives reasonable notice and affords fair opportunity to be heard before the issues are decided;"... "Due process of law, guaranteed by the Fourteenth Amendment, does not require the State to adopt a particular form of procedure, so long as it appears that the accused has had sufficient notice of the accusations and an adequate opportunity to defend himself in the prosecution." **Ibid, at 112**

40.

An "accusation" is an unsworn allegation, thus, for citizens of the United States, the Fourth Amendment requirement for Oath or Affirmation is circumvented. Also, pursuant to the **Roman Civil Law** the **maritime jurisdiction** attaching thereto via the **Fourteenth Amendment**, a citizen of the United States, has no legal basis to claim exemption from compulsory self-incrimination.

"It is impossible to reconcile the reasoning of these cases and the rule which governed their decision with the theory that an exemption from compulsory self incrimination is included in the conception of due process of the law. Indeed the reasoning for including indictment by a grand jury and trial by a petit jury in that conception, which has been rejected by this court in ***Hurtado v. California*** *and* ***Maxwell v. Dow***, was historically and in principle much stronger. Clearly appreciating this, Mr. Justice Harlin, in his dissent in each of these cases, pointed out that the inexorable logic of the reasoning of the court was to allow the States, so far as the Federal Constitution was concerned, to compel any person to be a witness against himself. In ***Missouri v. Lewis, 101 U.S. 22***, Mr. Justice Bradley, speaking for the whole court, said, in effect, that the **Fourteenth Amendment** would not prevent a State from adopting or continuing the **civil law** instead of the **common law**. This dictum has approved and made an essential part of the reasoning of the decision in ***Holden v. Hardy,18 S.Ct. 383, 169 U.S. 366 to 389 and Maxwell v. Dow, 20 S.Ct. 448, 176 U.S. 598 U.S. 366 to 389*** and **Maxwell v. Dow, 176 US 598**. The statement excludes the possibility that the privilege is essential to due process, for it hardly need

be said that interrogation of the accused at his trial is the practice of the civil law." **Ibid, at 113**

42.

<u>However, these provisions of the Roman Civil Law cannot apply to the Common Law Citizenry of the States</u>.

"The States had guarded the privilege to the satisfaction of their own people up to the adoption of the Fourteenth Amendment. No reason is perceived why they cannot continue to do so. The power of their people ought not to be fettered, their sense of responsibility lessened, and their capacity of sober and restrained self-government weakened by forced construction of the Federal Constitution." **Ibid, at 114.**

43.

<u>Thus, it is apparent that different modes of jurisprudence apply to different persons, status being the determining factor</u>.

"The Fourteenth Amendment does not profess to secure to all persons in the United States the benefit of the same laws and the same remedies." ***Twining v. New Jersey, 29 S.Ct. 14, 211 U.S. 78, at 90.***

44.

"Different Tribunals for Different Persons. When the protection of equal laws equally administered has been enjoyed, it cannot be said that there has been a denial of equal protection of the law within the purview of the Fourteenth Amendment, only because the state has allowed one person to seek one forum and has not allowed another person, asserted to be in the same class, to seek the forum, although as to both persons the law has afforded a forum in which the same and equal laws are applicable and administered." ***United States Federal Statutes Annotated, Vol. 9, page 551 (1888).***

45.

And it is equally apparent that the "privileges and immunities" and "due process" couched in the wording of the Fourteenth Amendment are totally different from that intended by the same wording in the original Constitution and the Bill of Rights, the difference therein being dictated by the jurisdiction attaching to each respectively. It also goes without saying that the federal courts cannot entertain an action that seeks to trespass the maritime jurisdiction of the Fourteenth Amendment in the realm of the common law. The **common law** originating in the **State Constitutions** is

superior to the **federal jurisdiction**. It is informative at this point to review the wording of the first section of the Fourteenth 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. 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 it's jurisdiction the equal protection of the laws." ***Amendment Fourteen, Section 1, U.S.*** **Constitution**

46.

The wording of the amendment concerns "**citizens of the United States**" and **none else** - Prior to the amendment there had **never existed** a **CLASS of CITIZENS of that CHARACTER and STATUS**.

"The Fourteenth Amendment **CREATES** and **DEFINES** citizenship of the United States. It had long been contended, and had been held by many learned authorities, and had never judicially decided to the contrary, that there was no such thing as a citizen of the United States, except as that condition arose from citizenship of some state. No mode existed, it was said, of

obtaining a citizenship of the United States, except by first becoming a citizen of some state." **United States v. Anthony, supra, at 830**

47.

What, then, was the character and nature of this new classification of citizens which Congress had created? By the phrase "and subject to the jurisdiction thereof," it may be readily perceived that they are both citizens and subject. By contrast, the free white inhabitants of the States are simultaneously citizens and sovereigns and have never been subject to the jurisdiction of the United States. For, being the creators thereof, how could they be subject to their own creation? Shall the servant rule the master? I think not, and there is a vast difference here between the former and the latter classes of citizenship. Congress has never had, and does not now have, the authority to legislate directly upon the common law citizens of the States. However, that is not to say that they may not regulate and control their own creation, those persons or citizens which were created by way of the Fourteenth Amendment.

48.

In the previous points expounded and substantiated, it was shown that the status of non-whites, even though ostensibly free, was that of the subject.

As stated in the amendment above, those who must look to that authority for citizenship can attain to nothing else.

"Before we can determine whether she was a citizen, or not, of either of those states, it is necessary to ascertain what it is that constitutes a citizen. In England, birth in the country alone was sufficient to make any one a subject. Even a villain or a slave, born within the King's allegiance is, according to the principles of the common law, a subject: But it never can be admitted that he is a citizen. One may, no doubt, be a citizen by birth, as well as a subject; but subject and citizen are evidently words of different import, and it indisputably requires something more to make a citizen, than it does to make a subject. It is, in fact, not the place of a man's birth, but the rights and privileges he may be entitled to enjoy, which make him a citizen." ***Amy v. Smith, supra at 332 (1822)***

49.

"Words could hardly have been used which more strongly marked the line of distinction between the citizen and the subject, the free and the subjugated races..." ***Dred Scott v. Sanford, supra, at 418.***

50.

"They alone are subject to the jurisdiction of the United States who are

within their dominions and under the protection of their laws, and with the consequent obligation to obey them when obedience can be rendered; and only those thus subject by their birth or naturalization are within the terms of the amendment. The jurisdiction over these latter must, at the time, be both actual and exclusive" in re ***Look Tin Sing, 21 Fed. Rep. 905 to 906 (1884)***

The word dominion means ownership and sovereignty;

51.

DOMINION: Ownership, or right to property or perfect or complete property or ownership. ***Whelan v. Henderson, Tex. Civ. App., 137 S.W. 2d 150, at 153 [4]***. Title to an article of property which arises from the power of disposition and the right of claiming it. ***Baker v. Westcott, 73 Tex 129*** ...Sovereignty or lordship; as the dominion of the seas.... ***Black's Law Dictionary, 4th Edition, West Publishing, at 573***.

52.

"Congress having **created** said "citizens of the United States", it would appear that they are property owned thereby and consequently owe obedience to **THEIR** sovereign. In contrast, one is here reminded that the common law citizens of the States were not, and are not, creations of the

United States nor are they under their "protection" thereof, since receiving nothing therefrom, they awe nothing thereto." ***Hale v. Henkel, 201 U.S.43, 74***, and neither was Congress ever their sovereign. "We have in our political system a government of the United States and a government of each of the several states. Each of these governments form the others, and each has citizens of it's own who owe it allegiance, and whose rights, within it's jurisdiction, it must protect. The same person may be a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other -- The duty of a government to afford protection is limited always by the power it possesses for that purpose... It can neither grant nor secure to it's citizens any right or privilege not expressly or by implication placed under its jurisdiction." ***United States v. Cruikshank, 92 U.S. 542, 549 to 550.***

53.

Distinguishing further, we may see that, rather than being a matter of natural right, the citizenship created and granted by Congress to it's own protected class of persons is in the nature of a franchise or license.

"It may be conceded that this amendment gives power to congress, not

only to protect the personal freedom of the enfranchised citizens, but to remove from them every badge and restraint of slavery and involuntary servitude. Congress has by virtue of this amendment declared 'that all persons within the jurisdiction of the United States shall have the same right in every state and territory... to give evidence... as is enjoyed by white persons', conceding, then, that congress had the power by virtue of the Thirteenth Amendment to confer on the persons enfranchised thereby the same right to testify as is enjoyed by white persons... It would be an offense for two or more colored persons, enfranchised slaves, to conspire with the same purpose... The ground of the decision was that the sections referred to were broad enough, not only to punish those who hindered and delayed the enfranchised colored citizens from voting on account of his race, color, or previous condition of servitude, but also those who hindered and delayed the free white citizen." ***Le Grand v. United States, 12 Fed.Rep. 577, page 580 to 582***

54.

"The utmost legal effort of the emancipating section was to declare the colored as free as the white race in the United States. It certainly gave the colored race nothing more than freedom. It did not elevate them to social or

political equality with the white race. It neither gave nor aimed to give them, in defiance of State laws, all the rights of the white race, but left them equally free in all the States, and equally subject to State jurisdiction and State laws. Without the second section, therefore, there could be no pretext for a claim by Congress for special legislation for the colored race which would be unauthorized in relation to the white race of freemen. And whatever may have been the unspoken aim of the second section, freedom to all and nothing more, was the only construction object, and is the inevitable effect of this section....To prevent any such frustration of the aim and effect of the declared emancipation was obviously the object, and must be the only legitimate effect, of the second section. Power to enforce this article by appropriate legislation' can import nothing more than to uphold the emancipating section, and prevent a violation of the contemplated liberty of it's enfranchised race. It could not mean that Congress should have power to legislate over their civil rights and remedies in the States any more than over those of all citizens; and it certainly does not squint at any such legislation as to white citizens." ***Bowlin v. Commonwealth, 65 Kentucky Rep. 5,8 (1867)***

55.

The foregoing opinions repeatedly refer to the colored race as having

been **enfranchised** by the **Thirteenth**, **Fourteenth** and **Fifteenth Amendments.** Seeking to understand the nature of the "**enfranchisement**", it behooves us to examine the definitions thereof;

ENFRANCHISEMENT: The act of making free; giving a franchise or freedom to; investiture with privileges or capacities of freedom, or municipal or political liberty. Admission to the freedom of a city; admission to political rights, and particularly the right of suffrage. Anciently, the acquisition of freedom by a villain from his lord. "The word is now used principally either of the manumission of slaves, (g.v.) of giving to a borough or other constituency a right to return a member or members to parliament, or of the conversion of copy-hold into freehold." ***Mozley & Whiteley. Black's Law Dictionary, supra at 622.***

ENFRANCHISEMENT: The act of making free (as from slavery); giving a franchise or freedom to; investiture with privileges or capacities of freedom, or municipal or political liberty. Conferring the privilege of voting upon Classes of persons who have not previously possessed such. ***Black's Law Dictionary, page 528. (1993)***

FRANCHISE: A special privilege conferred by government on individual or corporation, and which does not belong to citizens of a country generally

of common right.... In England, it is defined to be a royal privilege in the hands of a subject.....In this country a franchise is a privilege or immunity of a public nature, which cannot be legally exercised without legislative grant. To be a corporation is a franchise. The various powers conferred on corporations are franchises. The execution of a policy of insurance by insurance company, and the issuing a bank note, by an incorporated bank, are franchises. Ibed. at 786

56.

"The act of 1902, under which the assessment complained of was made, provides for a tax on franchises, rights, and privileges, and not upon tangible property, income, business or capital. A franchise is a grant of right by public authority, the main element of which is, in general, "permission" to do something which otherwise the grantee would not have the right to do." ***Western Union Tel. Co. v. Wright, 185 Fed.Rep. at 253 (1910)***

57.

It is hardly necessary to do more than recall the fundamental principle established in ***Trustees of Dartmount College v. Woodward, 4 Wheat 518*** ....that a franchise is a contract between the grantor and the grantee. **D.C.** ***Transit System v. Pearson, 149 Fed. supp 18, at 24 (1957)***

"What is a franchise? Under the English law, Blackstone defines it as a royal privilege, or branch of the King's prerogative, subsisting in the hands of a subject." ***State of California v. Central Pac. RR Co., 8 S.C. 1073 to 1080 (1888)***

58.

It is obvious, from the testimony of these authorities, that citizens of the United States, being both created and endowed by Congress with privileges, are liable to regulation and taxation upon their limited statutory citizenship; for it was not, and is not, a natural right due them by birth. Hence, they are indeed subjects of their creator and under the jurisdiction thereof.

59.

In contrast and distinction therefrom, the free white common law citizens of the States are neither taxable nor regulatable on their citizenship; for it was neither created nor granted by Congress. Instead, that citizenship is by natural right existing since the origin of the race itself and founded upon authority not fashioned by men.

B. CONCLUSION

The conclusion warranted by the foregoing evidence and authorities is

focused upon one primary fact; that there are two classes of citizenship and they pertain and attach to differing types of "persons" and individuals. These classes of citizenship emanate from two sources, id est, that designated by the ***Preamble*** to the ***Constitution*** for the ***United States***, and that created by the **Fourteenth Amendment**. Each of the **two citizenships** adhere to, and reside in, the respective jurisdictions to which they attach. The original **De Jure Citizenship** is of the **organic common law jurisdiction**. The latter **de facto citizenship** is of the **internationalist maritime jurisdiction**. The **common law citizenship** pertains **solely** to the **white race** and the **Christian faith**, said faith serving to define the justice encompassed within, and the limits of, that jurisdiction. The **maritime citizenship** of the **Fourteenth Amendment** is **universalist** and **egalitarian** and it pertains to **all races, colors, and creeds**. The justice encompassed in that jurisdiction is defined by the expediency of the market place and the customs of merchants and nations. It's limits are declared by international law and treaties adopted by Congress.

60.

The relevance of the foregoing to the instant case resides in the fact that the class of citizenship to which an individual belongs determines the

jurisdiction to which he is liable and the justice which he is due. When the entity being dealt with is defined by statute, then the question of whether a party brought before the court falls within that statutory defined class, is relevant to the case. The jurisdictional challenge before the court is based upon the fact that **the Petitioner is not of that class contemplated by or through the Fourteenth Amendment or it's statutes.**

a) **Uniform Declaratory Judgment Act Title 2 Chapter 37, in pertinent part as follows;**

C. SCOPE

Section 1. Courts of record within their respective jurisdiction shall have power to declare rights, statue, and other legal relations whether or not further relief is or could be **claimed**. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is **prayed for**. The declaration **may** be either affirmative or negative in form and effect: and such declaration shall have the force and effect of a final judgment or decree.

1. POWER TO CONSTRUE, ETC.

Section 2. Any person interested under a deed, will, written contract, or

other writings constituting a contract, or whose rights, status, or other legal relations are effected by a statute, Municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a Declaration of Rights, Status, or other legal relations thereunder.

Petitioner has proven beyond any reasonable doubt the class of Citizenship which she inhabits.

Therefore, this Honorable Court should declare that the Petitioner, being a free, white Citizen of the State of Texas, is a De Jure Common Law Citizen as designated in the Preamble to the Constitution for the United States, and as clearly espoused and defined in ***Dred Scott v. Sanford, 60 U.S. 393, 19 Howard 393.***

Dated this 16th day of December, 1996 A.D.

Barbara Ann Martin
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CERTIFICATE OF CONFERENCE

Petitioner certifies that she has conferred with all the Respondent parties to this lawsuit, in an attempt to resolve this issue wherein Petitioner seeks from Respondents formal recognition of her De Jure Citizenship.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Barbara Martin **Petitioner**	{}	
VS.	{}	
United States of America. Office of the President of the United States of America. United States Department of the Treasury Office of the Secretary, Department of Health and Human Services, Office of the Secretary, Social Security Administration, Office of the Commissioner, Internal Revenue Service, Office of the Commissioner, State of Texas, Office of the Governor, Texas Department of Public Safety, Office of the Director, Office of the Fort Bend County Clerk, Fort Bend County, Texas. **Respondents:**	{}	**CA No. H-96-2563**

A SUPPLEMENTAL MEMORANDUM ON CLASSES OF CITIZENSHIP IN SUPPORT OF THE PLAINTIFF'S REQUEST FOR DECLARATORY JUDGMENT OF CITIZENSHIP