

from

Was Grandpa Really a Moron?

Critical Inquiries for a New American Century

by

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**On "Citizenship", Serving On Juries, Voting And The
Fourteenth Amendment**



I recently became aware that some in the "tax honesty" community are promoting behavior which is likely (if not guaranteed) to result in the actor being denied opportunities to serve on a jury. In fact, it appears that this is precisely what is intended by at least one such advocate, who advises his readers to reply to a jury summons with the submission of a letter in which elements of the affidavit of citizenship and residency included with the summons are challenged. As though it is something to be proud of, this fellow claims on his website that, *"To date, this jury letter has had a 100% success rate at stopping the jury summons process..."*

The reason given for this bizarre advocacy is to prevent a respondent to a jury summons from declaring himself to be a "citizen of the United States", which declaration is imagined to impose a legal infirmity. It is imagined that to make this declaration risks transforming oneself from a citizen of one of the several States into a "citizen of the federal government", which is perceived to be a lesser status-- indeed, little more than a serf, with no inherent, unalienable rights-- as though

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somehow the federal government has the power to strip people of their unalienable, inherent rights. The perspective on the meaning of "resident" is even more strained.

The language of the Fourteenth Amendment is, in large part, the inspiration for these delusions. The meaning and effect of that amendment (and the legality of its adoption, for that matter) is a subject upon which much could be written, and I do not intend to go into it here. (Nor will I discuss here the facts that the expression "citizen of the United States" predates the Fourteenth Amendment-- which wasn't "adopted" until 1868-- by 79 years; or that, absent a specification to the contrary or a clear contextual implication, the expression "The United States" as generally used means "The States United"*.) It will suffice for now to refer to the following words of the United States Supreme Court, reflecting the fact that when one or more of the several States cedes territory to the federal government by any means or for any purpose, it does not hand over the inhabitants of that territory as "federal (or "United States") citizen" slaves at the same time, the Fourteenth Amendment notwithstanding:

*"And as the guaranty of a trial by jury, in the third article, implied a trial in that mode, and according to the settled rules of common law, the enumeration, in the sixth amendment, of the rights of the accused in criminal prosecutions, is to be taken as a declaration of what those rules were, and is to be referred to the anxiety of the people of the states to have in the supreme law of the land, and so far as the agencies of the general government were concerned, a full and distinct recognition of those rules, as involving the fundamental rights of life, liberty, and property. **This recognition was demanded and secured for the benefit of all the people of the United States, as well those permanently or temporarily residing in the District of Columbia as those residing or being in the several states. There is nothing in the history of the constitution, or of the original amendments, to justify the assertion that the***

people of this District may be lawfully deprived of the benefit of any of the constitutional guaranties of life, liberty, and property;..."

United States Supreme Court, Callan v. Wilson, 127 U.S. 540 (1888) (Emphasis added)

*"The congress of the United States, being empowered by the constitution 'to exercise exclusive legislation in all cases whatsoever' over the seat of the national government, has the entire control over the District of Columbia for every purpose of government, -national or local. It may exercise within the District all legislative powers that the legislature of a state might exercise within the state, and may vest and distribute the judicial authority in and among courts and magistrates, and regulate judicial proceedings before them, as it may think fit, **so long as it does not contravene any provision of the constitution of the United States.** Kendall v. U. S. (1838) 12 Pet. 524, 619; Mattingly v. District of Columbia (1878) 97 U.S. 687, 690; Gibbons v. District of Columbia (1886) 116 U.S. 404, 407, 6 S. Sup. Ct. 427."*

United States Supreme Court, Capital Traction Co. v. Hof, 174 U.S. 1 (1899) (Emphasis added, and, for those who persist in misunderstanding or denying the point, the provisions of the Constitution which Congress cannot contravene even in DC include the prohibition against unapportioned direct taxes...)

(See your CtC Companion CD for both of these rulings in their entirety)

I will further present the following on the general nature and meaning of "citizen of the United States":

"Looking at the Constitution itself we find that it was ordained and established by 'the people of the United States, and then going further back, we find that these were the people of the several States that had before dissolved the political bands which connected them with Great Britain, and assumed a separate and equal station among the powers of the earth, and that had by Articles

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of Confederation and Perpetual Union, in which they took the name of 'the United States of America,' entered into a firm league of friendship with each other for their common defence, the security of their liberties and their mutual and general welfare, binding themselves to assist each other against all force offered to or attack made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Whoever, then, was one of the people of either of these States when the Constitution of the United States was adopted, became ipso facto a citizen—a member of the nation created by its adoption. He was one of the persons associating together to form the nation, and was, consequently, one of its original citizens. As to this there has never been a doubt. Disputes have arisen as to whether or not certain persons or certain classes of persons were part of the people at the time, but never as to their citizenship if they were.

...
The United States has no voters in the States of its own creation. The elective officers of the United States are all elected directly or indirectly by State voters. The members of the House of Representatives are to be chosen by the people of the States, and the electors in each State must have the qualifications requisite for electors of the most numerous branch of the State legislature. Senators are to be chosen by the legislatures of the States, and necessarily the members of the legislature required to make the choice are elected by the voters of the State. Each State must appoint in such manner, as the legislature thereof may direct, the electors to elect the President and Vice-President."

United States Supreme Court, *Minor v. Happersett*, 88 U.S. 162 (1874)

and that of residence:

"Now, the point that you are to decide, gentlemen, is this: Did the plaintiff, Gus. B. Ohle, at any time leave the state of Iowa for the purpose of taking up, actually

and in good faith, his residence and citizenship in Illinois? Now, I use the word 'residence,' meaning this: It would not be sufficient merely to show that he went and resided in the sense of living in Illinois. Residence is evidence of the citizenship. You are ultimately to find whether he became a citizen of Illinois. In deciding that question you have a right to consider what he did in the matter of residence; that is, where he actually lived; the place he occupied, what we ordinarily mean by the term living. ...[That is] that he had the intent at that time, - bona fide, actual intent, -of settling in Illinois."

The lower court jury instruction challenged and upheld in the United States Supreme Court in *Chicago & NW RR Co. v. Ohle*, 117 U.S. 123 (1886)

(Both of these rulings are well worth reading in their entirety. See www.losthorizons.com/CitizenshipCases.pdf.)

The citizenship and residency qualifications for being a juror are simply that one be an American citizen, and that one be resident in the judicial district deemed to have been appropriate for the trial which will be conducted. This is true in federal as well as state trials. As the U.S. District Court for the Southern District of Indiana helpfully puts it:

QUALIFICATIONS FOR FEDERAL JURY SERVICE

- 1. Must be a citizen of the United States of America, at least 18 years of age, who resided for a period of 1 year within the judicial district.*

The District Court for the Middle District of Florida puts it this way:

- 1) Must be a citizen of the United States of America, at least 18 years of age, who has resided for a period of 1 year within the judicial district;*

Some other districts express the same thing using only "United States citizen" or "citizen of the United States", because in the context of jury duty, they all mean the same thing. Just as they all mean the same thing in the context of voting in federal elections, by the way... (By the way, judicial districts,

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and residing therein, also have no nefarious, secret character. A judicial district is just an imaginary subdivision of the population to which a serving court is assigned, in what is intended to be an equitable distribution of resources.)

Oddball notions abound, of course, and many are harmless eccentricities. This one is not harmless. The power of the jury is the most significant check on the exercise of tyranny provided for by the Founders short of the power secured by the Second Amendment. The very idea that members of the "tax honesty" community-- arguably the most plugged-in, courageous and reliably principled Americans gracing this great country-- are being persuaded to withhold their wisdom and courage from the jury room where the fate of their neighbors is determined, and where judgment is rendered on the validity of every law which our servant government's seek to impose upon us all, is appalling! I call upon everyone to do everything possible to see to it that this nonsense goes no further than it already has. For more on this critically important issue, see 'The Power Of The Jury' in 'Upholding the Law And Other Observations'

*But see, for instance the following from 'Bouvier's Dictionary of Law', 6th edition, 1856:

CITIZEN. 4. A citizen of the United States, residing in any state of the Union, is a citizen of that state. 6 Pet. 761 Paine, 594; 1 Brock. 391; 1 Paige, 183 Metc. & Perk. Dig. h. t.; vide 3 Story's Const. '1687 Bouv. Inst. Index, b. t.; 2 Kent, Com. 258; 4 Johns. Ch. R. 430; Vatt. B. 1, c. Id, '212; Poth. Des Personnes, tit. 2, s. 1. Vide Body Politic; Inhabitant.

UNITED STATES OF AMERICA. The name of this country. The United States, now thirty-one in number, are Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York North

Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Wisconsin, and California.

Also, see the words of the United States Supreme Court, after an exhaustive review of the subject in "United States v. Wong Kim Ark, 169 U.S. 649 (1898)":

"The real object of the Fourteenth Amendment of the Constitution, in qualifying the words, "All persons born in the United States" by the addition "and subject to the jurisdiction thereof," would appear to have been [merely] to exclude, by the fewest and fittest words (besides children of members of the Indian tribes, standing in a peculiar relation to the National Government, unknown to the common law), the two classes of cases -- children born of alien enemies in hostile occupation and children of diplomatic representatives of a foreign State -- both of which, as has already been shown, by the law of England and by our own law from the time of the first settlement of the English colonies in America, had been recognized exceptions to the fundamental rule of citizenship by birth within the country. Calvin's Case, 7 Rep. 1, 18b; Cockburn on Nationality, 7; Dicey Conflict of Laws, 177; Inglis v. Sailors' Snug Harbor, 3 Pet. 99, 155; 2 Kent Com. 39, 42."