# **Federal v. National**

# by Alfred Adask

The most perplexing question facing constitutionalists involves the hypothesis that we somehow have *two* "layers" of government. That is, there appears to be a "corporate" government that has usurped the powers of the constitutional government established under the Federal Constitution.

Although government "duality" has been dogma among constitutionalist for at least a decade, average Americans dismiss the idea as incredible. Nonetheless, there is growing acceptance of the idea that government speaks with "forked" (constitutional/ corporate) tongue.

For example, in the June 4, 2000 Fox News TV program, Ralph Nader (candidate for the presidency) explained that he was critical of Al Gore's subservience to corporate America. Nader said he was concerned by the "takeover of our political government by corporate government." Nader's notion of a "political" (I'd say "constitutional") government being overwhelmed by a "corporate government" exactly parallels the dual-government hypothesis espoused by constitutionalists.

Nader also warned, "There's a permanent government in Washington that continues to rule regardless of whether a Republican or Democrat is elected to the Presidency."

Mr. Nader's "permanent government" is the administrative bureaucracy and corporate interests it represents. Again, Nader's criticism parallels that of constitutionalists.

More importantly, Nader's comments weren't challenged by the other four panelists on the national TV news program. Apparently, the panelists found the idea of a dual government dominated by corporations to be unremarkable.

Point: The fundamental concerns and values espoused by "patriots" for most of a generation are seeping into mainstream thought.

### Prima facie evidence

Although the mechanisms responsible for establishing and implementing the second "corporate" government remain to be precisely identified, we know absolutely that "this" de facto government is not "the" de jure government of the Federal Constitution.

We know that a second "kind" of government is operating because we routinely observe government-sanctioned denials of the "unalienable Rights" which are supposed to be guaranteed by the Federal Constitution.

For example, if you are prosecuted by the IRS, you do not enjoy the constitutional protections against unreasonable search and seizure or self-incrimination found in the Bill of Rights. Likewise, your common law presumption of innocence is not merely lost, it's reversed – *you* are presumed guilty (not innocent) and compelled to attempt a logical impossibility – proving the *negative* statement that your are "*not* guilty".

*How* they're doin' it to us remains to be precisely understood. The *fact* that they're doin' it to us is undeniable.

#### The new word order

We know that government uses subtle and deceptive terms to conceal the distinctions between what appear to be two "forms" of government. For example, "District Courts of the United States" are the Article III, judicial courts where virtually all federal litigants assume their cases are heard.

However, virtually all "federal" cases are heard in "United States District Courts" which are administrative (rather than judicial) and operate under the 1st (legislative) or 4th (territorial) Articles of the Constitution – but not under the 3rd (judicial) Article.

Note the subtle difference in terms: "District Courts of the United States" and "United States District Courts". Not one man in 100 would dream that those two terms identified different courts, with different jurisdictions and different duties to recognize (or ignore) a litigant's unalienable Rights.

A similar distinction exists between the "Supreme Court of the United States" and "United States Supreme Court". The two terms are not synonymous. Each term identifies an entirely different court.

#### Before and after

Generally speaking, when you see a document (Constitution of the United States) or institution (District Court of the United States) that includes the trailing phrase "of the United States," you are looking at an artefact of the original "federal" government that exists directly under the Constitution and under We the People (see the diagram at the end of this article).

However, when you see a document (*"United States* Constitution") or institution (*United States* Supreme Court) where "United States" is the *first* element of the title, you are usually looking at an artefact of the *National* government. This National government is ruled directly by Congress and all "U.S. citizens" (note the "U.S." in *front* of the term "citizens") are *subject* thereto.

#### citizens of the United States

There's one seeming exception to the rule that "U.S. first" signals the National Government. That exception is found in the 14th Amendment's designation for those subject to Congress: "citizens of the United States". This classification appears to apply within the National, not Federal government structure.

This subtle exception to the "U.S. first" rule was perhaps intended to fool the newly eman-

cipated Negroes into believing their diminished capacity status as 14th Amendment "citizens of the United States" was identical to that of White "Citizens of the United States" specified in the body of the Federal Constitution.<sup>1</sup>

#### Federal v. National

Just as there are two court systems, constitutionalists believe that there are also two "governments". Within the patriot community, those governments are variously identified as "constitutional" (good) and "corporate/ territorial/ martial" (bad).

Although these alternative governments are easily "sensed," they have not yet been precisely defined. In fact, I'm not sure precise definition is possible since the second (bad) government appears to be derived from – and therefore part of – the first (good) constitutional government.

I believe the most appropriate designations for the two alternative forms of government are "Federal" and "National". The "Federal" corresponds to the "constitutional" designation used by patriots. The "National" corresponds to the "corporate/ territorial/ martial" designations.

Further, it's possible that there aren't two "governments" so much as two governmental "capacities". That is, perhaps Congress has both the original (1788) *Federal* capacity to regulate state *governments* and the relatively new (post-1865) *National* capacity to rule "citizens of the United States".

But even if these two "governments" can't be absolutely separated, they can still be distinguished as opposite ends of a single government "spectrum". There may be a "gray area" in the middle of the spectrum where elements of both government polarities may seem confused. Nevertheless, the obvious contrasts between the extremes of this spectrum should help clarify a host of patriot and constitutionalist observations and theories.

I suspect that what started with the 13th Amendment as a limited National "capacity" in 1865 has grown until today, that "capacity" has evolved into a "de facto" National government.

Whatever the full explanation, I'm presenting this "Federal vs. National" hypothesis to encourage dialogue and further investigation.

#### **Political subdivisions**

Although the division may not be legally precise, there *are* two "governments" in Washington (and at the state level): one constitutional, the other frequently described as "corporate".

In order to evaluate the possibility of a "dual" government, it's necessary to first understand how government is divided.

Black's Law Dictionary (7<sup>th</sup> ed.; 1999) defines "census," as

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"The official counting of people to compile social and economic data for the *political subdivision* to which the people belong. ...." [Emph. add.]

The meaning of "political subdivisions" seems obvious – it's the "states," right? However, the term may be more subtle than most people imagine.

A "subdivision" of anything is necessarily a subcomponent of a larger, greater, and usually preexisting whole. As a crude illustration, the United States (which is comparatively small and new) could theoretically be a political subdivision of the Earth (which is larger and older). However, the older, larger Earth could not be a political subdivision of the small, newer United States.

It's a chicken/ egg phenomenon that generally boils down to "which came first". Thus, a little understanding of history helps explain which political entity came first and subsequently created its various political subdivisions.

#### Creator-creation principle

There is one master principle that applies to all political subdivisions: the creation is always subject to its creator.

Just as man is obligated to serve his Creator, so a government "of the people, by the people and for the people" must always be subject to the people who created that government. If the people created Congress, Congress must serve the people. But – if Congress were to create an agency like the FBI, that agency would be bound to directly serve *Congress* (it's creator) – rather than the *people* that created Congress.

The creator-creation principle lies close to the heart of our problem with "dual" governments. Patriots know that we were created by God – and that we, in turn, created our Federal, State – and National – governments. Therefore, we demand that our government serve us as all creations must serve their creators.

But as you'll see, we have foolishly allowed a third kind of *citizenship* to be created by the 14th Amendment that is directly subject to Congress rather than God. By allowing ourselves to appear or be presumed to be "citizens" created by and subject to Congress (as opposed to Citizens subject to God and superior to government) we have unwittingly traded our role as creator-sovereigns for citizen-subjects.

#### **Creative history**

• On July 4th, 1776 A.D., We the People – acting as sovereigns – created the thirteen (united) States of America. That creation was achieved with "The unanimous Declaration of the thirteen united States of America". (That instrument is also *incorrectly* known as the, "Declaration of Independence".)

Later, those newly created sovereign States (associations of *people*) wrote State Constitutions and thereby created their own State *governments* within their various States.

This creation lineage illustrates a subtle but important distinction: The Declaration did not create State *governments*; it only created Sovereign "States" – associations comprised of natural *people*. Later, these sovereign States (people) created their own State governments which (as creations) had to serve – not rule – the people/creators. As a result, State governments created by States (people) were truly "public servants".

• On Nov. 17th, 1777, a Congress of those thirteen sovereign States adopted the "Articles of Confederation" – our first federal constitution. These "Articles" established a weak federal government to act as agent for the thirteen sovereign States in their collective war against Great Britain.<sup>2</sup>

After the Revolutionary War, the federal government created by the Articles of Confederation was found to be too weak to effectively settle disputes between the thirteen sovereign States. Therefore, in 1787, a new "Constitution for the United States of America" was proposed by a convention of *people* (not State *governments*).

• In 1788, that Constitution was made operative when it was ratified by a convention of the ninth State (New Hampshire).

Again, note that the Constitution was ratified by a convention of the State's *people* – not by some official act of that State's *government*. This is an important point since the "creation" (the Constitution and resulting government) is always subject to and must serve its "creator" (the natural, God-created *people*).



The chart at the end of this article illustrate the history and evolution and variety of our political subdivisions.

#### The Feds are our friends?

The *Federal* Government is the one created by the Constitution adopted in 1788. Although some of us despise all things, "Federal," so far as I can see, that's the good one.

If you look up "federal" in *Black's Law Dictionary* (7th), you'll find:

"Of or relating to a system of associated *governments* with a vertical *division* of governments into national and regional components having different responsibilities; esp., of or relating to the *national* government of the United States." [emph. add.]

This definition is somewhat confusing since "federal" is "*of or relating to*" national government. Still, while the two terms may be *related* and somewhat similar, they are "divided" and not synonymous.

#### Hypothetically speaking

I suspect that while the "Federal" government was created by and subject to "We the People" (see the following two-page diagram), the National Government was created incrementally by the 13th, 14th, 15th and various later Amendments which, for the first time, granted Congress "national" power to "enforce" these amendments "by appropriate legislation" within the formerly sovereign States. These amendments ended the "division" of "national and regional compontes" mentioned in Black's definition of Federal government. Relatively speaking, the National Government is the bad one - the "evil twin," so to speak.

The difference between the Federal and National governments is implied by the terms themselves. If you reconsider Black's 7th definition of "Federal"

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you'll see that refers to a "system of associated *governments*". The implications are fascinating. The Federal government in Washington D.C. didn't regulate the States (people), it regulated the State *governments*.

"National," on the other hand, refers to a single government of the entire "nation" – i.e., of all the *people* who comprise the "nation" under a single jurisdiction.

See the difference? The "Federal" government in Washington D.C. was intended to regulate State *governments* (not State Citizens), to settle inter-State disputes, and represent all of the States as a single entity in foreign relations. But the Federal government could not pass laws and regulations or impose penalties *directly* upon the individual Citizens of the several States. Under the federal system, only State governments dealt directly with the People.

This arrangement of State governments associated with the

Federal government directly protected the People from abuse by the Federal government (in Washington D.C.). The State governments had more than ample power to stop any Federal assault on individual liberties and "States' rights".

Likewise, this interlocking but divided governmental structure also protected the People from abuse by their own State governments. If your State's government violated your constitutionally-guaranteed unalienable Rights, you could petition your Congressman and/or the Federal courts for redress. (That's what "constitutionally-guaranteed rights" means: the Federal government guarantees to protect your "unalienable Rights" against violation by State governments.)

Thus, the Feds protected the People from State governments, State governments protected the People from the Feds, and both levels of government were designed to serve the People rather than rule them. The federal system was an extraordinarily ingenious.

#### Post-Civil War revolution

But after the Civil War, a new "national" governmental capacity was created when the 13th Amendment was ratified. Congress, for the first time, was granted power to enforce the 13th Amendment *directly* upon People *within* the States.

Do you see the difference? Prior to the 13th Amendment, the Federal Government only regulated *State governments*. After the 13th Amendment, the government took on a "national capacity" that allowed direct regulation of the *nation*; i.e., of *all* the *People* in *all* of the States.

This national legislative capacity marked the beginning of the end for "States' Rights" and the foundation for all the onerous rules, regulations, and administrative agencies that currently emanate from our "National" Government in Washington D.C..

#### **Mis-directions**

In the *federal* system of government, We the People are sovereign and the government is our servant. But under the *national* system of government (aka, "legislative democracy"), the Congress becomes sovereign, and We the People are reduced to *subjects*. In the federal system you are expected to be free and independent. Under National Government you are expected to live as a dependent in regulated bondage to that government.

While a National Government might still offer some protection against abuse by corporate state governments, it left little recourse to protect the People from abuse by the *National* government, itself.

The *federal* system is where most of us think we live. The *national* system is where most of us probably are.

#### Corporate government

The 13th, 14th, 15th, 16th, 19th, 23rd, 24th, and 26th Amendments all granted *national* powers of enforcement to *Congress* – but not to the existing Executive and Judicial branches of the Federal government.

I believe these Amendments created a "national" governmental capacity for Congress that has evolved into a virtual National Government. That National government is probably operating *exclusively under Congress* (not directly the People). If so, this "second" National government could not use the existing enforcement apparatus that was created by the People under the Executive and Judicial branches of the *Federal* government.

Why? Because *Federal* bureaucracies may be exclusively empowered to regulate State *governments* – but not State Citizens.

Therefore, Congress might have to create its own National

bureaucracy to enforce its National regulations. As a result, there'd be two "bureaucracies": Federal (operating under the Executive Branch) and National (operating under Congress).

How could Congress create a bureaucracy directly under itself? How 'bout by *incorporating* agencies (like the IRS or FBI) or chartering trusts (like the Federal Reserve System or the National Highway Trust)?

Thus, the Federal government would operate and control the constitutional Post Office but Congress would have to create its own *corporation* (U.S. Postal Service) to handle postal affairs for the *National* government and "national" (14th Amendment) citizens.

The possibility that *corporate* bureaucracies are agencies of *National* (not Federal) government raises some intriguing questions:

• If the U.S. Postal Service and similar corporations are

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agencies of the National government, then is it possible that Congress/ National government is the *principal*? If so, is Congress somehow *liable* for its agents' and agencies' errors?

• Is it remotely possible that my Congressman (Senator?) is the local *registered agent* for the national government's corporate agencies?

• If so, does notice to principal (legislative democracy/ Congress/ National government) constitute legal notice to agent (corporate bureaucracies)? That is, should I send my administrative notices to my Congressman (National government's registered agent?) rather than some onerous corporate agency?

#### Hypothetical answers?

The proposed distinction between Federal and National governments might explain several legal "anomalies" that have perplexed the constitutionalist community for some time. For example:

A Federal/ National distinction could explain why some agencies (like the IRS and FBI) are missing from government's list of bureaucracies and seem to have "magically appeared" without being enacted into law by Congress. Perhaps these lists record legitimate Federal bureaucracies (which were enacted) while the mysterious un-enacted agencies (IRS, FBI, etc.) were incorporated under of the National government as corporate bureaucracies. This might also explain what some people regard as the "corporate" government.

• The distinction between Federal and National governments might explain why some of the laws passed by Congress are recorded in the "positive" titles of the United States Code, while other (like Title 26 dealing with income tax) are not. Perhaps the "positive" Titles list those laws passed by Congress acting in its Federal capacity while the "non-

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positive" Titles list those regulations passed by Congress acting in its National capacity.

• The distinction between Federal and National governments might also explain the OMB anomalies we've seen where government forms — which are mandated by law to include valid OMB numbers — don't.

For example, the Census 2000 D-2(UL) form and the IRS 1040 form reportedly lack valid OMB numbers. Could it be that forms used by the *Federal* government require valid OMB numbers while the "bootleg" forms of *Nationall* corporate government do not?

#### The 14th's great deception

Government has used "benefits," voter's registration, Social Security and other devices to lure and deceive the People into "voluntarily" (but unwittingly) trading their *sovereign* status and God-given "unalienable rights" as "Citizens" for the servitude of 14th Amendment "citizens". Prior to the 14th Amendment, our unalienable Rights had been granted by God, declared in the Declaration of July 4th, 1776, and guaranteed by the Federal government created by the Federal Constitution (made operative in 1788). After the 14th Amendment, Americans slowly accepted the *subject* status of "citizens of the United States" and the temporary privileges (benefits) called "civil rights" under the National government.

But note that the Federal government has not disappeared. It's been supplanted by the National government, but not replaced.

However, our real problem is not that we have two "governments," but that we have several forms of citizenship. We the People have unwittingly abandoned our sovereign status as "natural born Citizens" and "Citizens of the United States" (recognized by the Federal Constitution in 1788) and accepted the

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subject status of "citizens of the United States" created by the 14th Amendment in 1868. By doing so we *voluntarily* became subjects of the National government's jurisdiction.

The fault, Horatio, is not in our governments, but in ourselves. If you'll study the following chart, perhaps you'll agree.

<sup>1</sup>It's only conjecture, but since the vast majority of Negroes were probably illiterate in 1870, they'd be unable distinguish between "citizen" and "Citizen" since the words sound the same. Thus, if an emancipated but illiterate Negro appeared in court and a judge asked if he were a "citizen," the Negro (thinking the judge had asked if he were a "Citizen") would surely swear Yes. In theory, the judge could rule accordingly and deny the Negro citizen-subject any claim to a Citizen's unalienable Rights.

I don't know if any Negroes were ever actually exploited with such deception, but it's easy to imagine the possibility. Through the use of 14th Amendment citizenship, government could simultaneously "free the slaves" and still treat the emancipated in court like a "bunch of niggers".

Over the years, it's likely that judges and government learned to trick poor, illiterate Whites with the same question:

"Do you swear you're a citizen, Mr. Whiteboy?"

Yessir, yer honor!

"OK [you dumb white trash], then I find you guilty as charged!" By assuming the judge said "Citizen" when he really said "citizen," the illiterate White unwittingly accepted the status of *subject* and thereby agreed to be railroaded by the court.

Historians promote a noble cause for the Civil War (freeing the slaves) and no doubt, for some, that was true. But it's also true that the Civil War was fought for ignoble reasons that are today "politically incorrect" and even forgotten.

For example, I've never believed the North was primarily motivated to suffer the horrific Civil War just to free a bunch of Southern slaves. That may've been an excuse or even a real (but secondary) reason. But no nation in history has ever inflicted the kind of carnage upon itself that took place in the Civil War for the sake another race, let alone a race of slaves.

I suspect an additional reason for emancipation was not to free the slaves but to confine them to the South. When you think about it, it's obvious that if it weren't for slavery, Negroes would never have reached the USA in significant numbers. Africans didn't have the resources to cross the Atlantic on their own. However, as slaves (property) they moved in massive numbers to the New World.

Why? Because slave owners paid for their transportation.

Similarly, Negroes in the deep South could never move to New York in substantial numbers *except as slaves*. I.e., so long as Negroes were *property*, it was inevitable that some New York farmer or factory owner could buy some slaves and pay the costs of transporting them up from Georgia.

But if the slaves were freed, they could not be owned, they'd have no value as property, and therefore no northern businessmen would pay to import them from the South. Thus, freeing the slaves was not necessarily an act of humanity and invitation but rather an attempt to prevent immigration and confine Negroes to the South.

The public might not have recognized the relationship between slavery and Negro immigration when the 13th Amendment "freed the slaves". But I'll bet astute northern politicians understood clearly that by freeing the slaves, they'd slow or prevent the influx of Negroes from South to North.

If so, it follows that at least some of the politicians of the several northern States which prohibited slavery before the Civil War may have been motivated less by abhorrence for slavery than abhorrence for Negroes.

<sup>2</sup>The "Articles of Confederation" also created the "*perpetual* Union" styled "The United States of America."

According to Bouvier's Law Dictionary (1856), a "union" is an "unincorporated association" of natural persons. It's virtually certain that the perpetual Union ("The United States of America") created by the Articles of Confederation identifies virtually all of the *natural* people inhabiting all the several united States. Thus, "The United States of America" is not precisely a collection of several independent States, but rather an single unincorporated association of all the people who comprise the several States. In other words, even though a man living in Newark might be a Citizen of New Jersey and a man living in Buffalo might be a Citizen of New York, both would be members of perpetual Union styled "The United States of America".



(Continued from the previous page) #7(B). Union styled "The United States of America". This "perpetual Union" was composed of the sovereign States/ People – not State governments – and was continued and made "more perfect" under the subsequent Constitution (# 8). # 8. Constitution for the United States of America (1788 A.D.) Created and ratified by conventions of the People of the Union, not existing State governments to serve the **People** (creators) and regulate State governments. (State governments were also created by the **People** to serve – not rule – the **People**.) J # 9A. Three Branches of FEDERAL Government: The # 9(B) "Federal" State governments. Federal Goverenment exercised strong, but limited autority While the People remained sovereign, over the "federation" of the several State governments. these "Republican form" State govern-However, the Federal Government had virtually no direct ments are not, since they are largely jurisdiction over the sovereign States/People (State Citizens, subject to the Federal government. natural born Citizens & Citizens of the United States). These State governments would later gislative Executive Judicial be supplanted by the corporate state "governments" identified in #13 (below). #10. 13th Amendment (Dec 18, 1865 A.D.) < < < < < < < < < < National Governmental Capacity Ratified just 8 months after Gen. Lee's surrender (April 9) and Lincoln's assassination (April 14), #11. 14th Amendment July 28, 1868 Section 1 of this Amendment abolished slavery and "All persons born or naturalized in the involuntary servitude. But Section 2 granted Con-United States, and subject to the gress (not the executive or judicial branches) "power jurisdiction thereof, are citizens of the to enforce this article by appropriate legislation." United States and of the State wherein This grant extended Congressional jurisdiction far they reside." beyond the Constitution's "federal" limits and, for the By referring to "the [singular] jurisdiction" first time, allowed Congress to directly reach State of the "United States," the 14th Citizens within the (formerly) sovereign States. Amendment conceded the the preexistance of single, "national" jurisdiction to rule over the new "nation" of "citizens of the United States". This single, nationwide government (aka "Legislative National Government/ Legislative Democracy Democracy") is ruled exclusively by #12. Legislators ostensibly elected to serve in The 13th Amendment's direct jurisdiction over all Americans (as the Legislative branch of the Federal individuals) created a new National (not Federal) legislative "capacgovernment. ity" in Congress. Based on additonal powers of national government granted by the 14th, 15th, 16th, 19th, 23rd, 24th, and 26th Amendments, that national legislative capacity has evolved into a National Government to rule directly with amost unlimited power #14. "citizens of the United States" over the 14th Amendment's newly-created nation of "citizens of the The 14th Amendment created an entirely United States" (rather than the Federal governments rule over new class ("nation") of "persons" called State governments). "citizens of the United States" who would be "subject" to the single jurisdiction of the "United States" (National government/ legislative democracy). These "citizens" are not the **People** created by and **#13.** Corporate Bureaucracies were created to directly subject to God. As a result, administer with near-absolute authority over the "citithese "citizens" have no clear claim to zens of the United States," "U.S. citizens" and other God-granted "unalienable rights". These beneficiaries who comprise the "nation" subject to direct citizens" have voluntarily become subject Congressional jurisdiction. These National/corporate to Congress rather than God. Remember bureaucracies Includes FBI, FEMA, OSHA, FCC, IRS, ATF, the 1st Commandment? "Thou shalt have STATE OF TEXAS (not "Texas"), U.S. District Courts, U.S. no other gods before me?" This status is Postal Service etc.. AKA "corporate government". These the modern equivalent of serf or slave. agencies do not include legitimate Federal bureaucracies These "citizens" are "born" (not created) that operate directly under the executive branch of the and identified with upper case names like Federal government like the Post Office. "ALFRED N. ADASK"