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**A Dissertation on the Manners of Acquiring the Character
and Privileges of a Citizen.**

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DISSERTATION
ON THE
MANNER OF ACQUIRING
THE
CHARACTER AND PRIVILEGES
OF A
CITIZEN
OF THE
UNITED STATES.

[By David Ramsay]



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DISSERTATION, &c.

THE *United States* are a new nation, or political society, formed at first by the declaration of independence, out of those *British subjects* in *America*, who were thrown out of royal protection by act of parliament, passed in *December, 1775*.

A citizen of the *United States*, means a member of this new nation. The principle of government being radically changed by the revolution, the political character of the people was also changed from subjects to citizens.

The difference is immense. Subject is derived from the latin words, *sub* and *jacio*, and means one who *is under* the power of another; but a citizen is an *unit* of a mass of free people, who, collectively, possess sovereignty.

Subjects look up to a master, but citizens are so far equal, that none have hereditary rights superior to others. Each citizen of a free state contains, within himself, by nature and the constitution, as much of the common sovereignty as another. In the eye of reason and philosophy, the political condition of citizens is more exalted than that of noblemen. Dukes and earls are the creatures of kings, and may be made by them at pleasure: but citizens possess in their own right original sovereignty.

There is also a great difference between citizens, and inhabitants or residents.

Any person living within a country or state, is an inhabitant of it, or resident in it.

Negroes are inhabitants, but not citizens. Citizenship confers a right of voting at elections, and many other privileges not enjoyed by those who are no more than inhabitants.

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The precise difference may be thus stated: The citizen of a free state is so united to it as to possess an individual's proportion of the common sovereignty; but he who is no more than an inhabitant, or resident, has no farther connection with the state in which he resides, than such as gives him security for his person and property, agreeably to fixed laws, without any participation in its government.

Republics, both ancient and modern, have been jealous of the rights of citizenship. The new constitution carries this matter so far, as to require not only present citizenship in federal representatives and senators, but antecedent citizenship for the term of seven and nine years. The time and manner of acquiring the high character of a citizen of the *United States*, is therefore well worthy of public discussion.

The following appear to be the only modes of acquiring this distinguishing privilege.

1st. By being parties to the original compact, the declaration of independence.

2d. By taking an oath of fidelity to some one of the *United States*, agreeably to law.

3d. By tacit consent and acquiescence.

4th. By birth or inheritance.

5th. By adoption. Of each of these in their order.

1st. By the declaration of independence congress proclaimed to the world, that their constituents, "the people of the united colonies, were absolved from all allegiance to the crown of *England*," and that the late colonies were "free and independent states." For the support of this bold measure, they confederated together, by pledging to each other "their lives, fortunes, and sacred honour." By this eventful declaration, "a nation was born in a day." Nearly three millions of people who had been subjects, became citizens. Their former political connection with *George* the third was done away, and a new one was formed, not with another king, but among themselves, by which they became coequal citizens, and, collectively, assumed all the rights of sovereignty. As this was done by the representatives

representatives of the people of this country, and in their name, and on their behalf, all who had concurred in investing congress with power, acquired citizenship, by being parties to this solemn act. These original citizens were the founders of the *United States*. Citizenship could not be acquired in this way by absentees from *America*, for two reasons; 1st. Such were not thrown out of *British protection* by the restraining act of parliament, and therefore continued *British subjects*, under the obligations, and in quiet possession of their *British allegiance*: And, secondly, Such could not be parties to the constitution of congress. The members of that body were not their deputies, or agents, and therefore could not bind them, or act for them.

2d. To cement the people of *America* more firmly together, oaths of fidelity to the states were respectively administered soon after the declaration of independence, to all above a certain age. By these oaths, a compact was established between the state and the individuals; and those who took them acquired or confirmed their citizenship by their own personal act. By swearing to do the duty of citizens, they, by law, acquired a right to the privileges and protection of citizens. Those who refused, were ordered to depart, as being persons unfriendly to the revolution.

3d. As the war drew near a close, the administration of oaths being less necessary, was less frequent. Citizenship was then, and now is, daily acquired by tacit consent or acquiescence. Minors who were not old enough to be parties to the declaration of independence, or to take the oaths of fidelity to the states at the time they were imposed, became citizens in consequence of their continuing to reside in the *United States* after they had arrived to mature age, especially if at the same time they claimed the protection, and performed the duties of citizens.

At twenty-one years of age, every freeman is at liberty to chuse his country, his religion, and his allegiance. Those who continue after that age in the allegiance under which they have been educated, become, by tacit consent, either subjects or citizens, as the case may be. In this manner, young men are now daily acquiring citizenship, without the intervention of an oath. It

It is to be observed, that in order that such persons may acquire citizenship in this way, their residence subsequent to the revolution is indispensably necessary, previous to the commencement of their citizenship: for no man can be said so far to acquiesce in, or consent to a government, before he has lived under it, as to become a citizen thereof by tacit consent.

Citizenship, when acquired in this way by an absentee at the time of the declaration of independence, can therefore only be dated from the time in which the claimant of that high privilege became a resident under the independent government of the state of which he claims to be a citizen.

4th. None can claim citizenship as a birth-right, but such as have been born since the declaration of independence, for this obvious reason: no man can be born a citizen of a state or government, which did not exist at the time of his birth. Citizenship is the inheritance of the children of those who have taken a part in the late revolution: but this is confined exclusively to the children of those who were themselves citizens. Those who died before the revolution, could leave no political character to their children, but that of subjects, which they themselves possessed. If they had lived, no one could be certain whether they would have adhered to the king or to congress. Their children, therefore, may claim by inheritance the rights of *British subjects*, but not of *American citizens*.

5th. Persons born in any country may have acquired citizenship by adoption, or naturalization, agreeably to law.

The citizenship of such must be dated from the time of their adoption.

From these observations, the following inferences result.

Citizenship is an adventitious character to every adult in the *United States*; and there was a certain period in the lives of such persons, when they ceased to be subjects, and began to be citizens.

The citizenship of no man could be previous to the declaration of independence, and, as a natural right, belongs to none but those who have been born of citizens since the 4th of July, 1776.

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This accounts for the use of the word *resident* in that paragraph of the new constitution, which describes the qualifications of the president of the *United States*. The senators must be *citizens* nine years, and the representatives seven years; but it is not said, that the president must be a citizen for fourteen years. The thing was impossible, for independence was then not quite twelve years declared; therefore the word *resident* was introduced in order to comprehend time before the declaration of independence.

By the same paragraph, the distinction between a citizen and a resident is constitutionally recognized; for tho' it is necessary, that the president must have been "fourteen years a *resident*," it is sufficient for him to have become a *citizen* "at the time of the adoption of the constitution." By this it is acknowledged, that one may be much longer a resident within the *United States*, than a citizen of the same. The precision of this paragraph, in respect to language, is worthy of observation. It is not said, that the president must have been a resident *in*, or an inhabitant *of* the *United States*, for fourteen years. The word used is *within*, which, as explained by Doctor *Johnson*, means, "in the compass of,"-----"the inclosure of." The sentence, therefore, when analysed, means nothing more than that the president must have been a resident within the *limits* of the *United States* for fourteen years.

Though the states have not existed as states for fourteen years; yet, their geographical boundaries, or limits, have existed from the first settlement of *America*. But to proceed with inferences. From the premises already established, it may be farther inferred, that citizenship, by inheritance, belongs to none but the children of those *Americans*, who, having survived the declaration of independence, acquired that adventitious character in their own right, and transmitted it to their offspring. The children of those who died before the revolution, who are now citizens, must have acquired that privilege in their own right, and by their own personal act; that is, by joining their country at or since the revolution.

Citizenship, acquired by tacit consent, is exclusively confined to the cases of persons who have resided within the
United

United States since the declaration of independence, and could not have commenced prior to their actual residence under their new and independent governments.

From the whole it is plain, that no private individual, tho' a native, who was absent from this country at the time independence was declared, could have acquired citizenship with the *United States*, prior to his returning and actually joining his countrymen subsequent to the revolution.

Dangerous consequences would follow from admitting that birth and residence, before the declaration of independence in the country now called the *United States*, were sufficient to confer the rights of citizenship on persons who were absent during the late war, before they returned to their native country.

If this should be established, many persons, hostile to our liberties and independence, might put in their claim to be citizens. All the children born in the interval between the peace of *Paris*, 1763, and the declaration of independence in 1776, within the *British* posts on our north-western frontier, now wrongfully held from us, would be citizens. Our *East-India* trade would be laid open to many adventurers, who have contributed nothing towards the establishment of our liberties: for the natives of this country, born before the revolution, who are now dispersed over the world, might, on that principle, fit out ships, make voyages to *India*, come here and sell their goods, under the character of citizens, from the circumstance of their having been born among us thirty or forty years ago, and return with the net proceeds of their cargoes, to their present residence in foreign countries. These, and many other consequences, injurious to the liberties and commerce of these states, would result from admitting the dangerous position, that birth and residence in this country, before the revolution, conferred citizenship on absentees, antecedent to their return after that event had taken place.

ARE PERSONS BORN WITHIN THE UNITED STATES IPSO FACTO CITIZENS THEREOF?¹

Prior to the adoption of the Fourteenth Amendment to the constitution there was no full and complete definition of citizens of the United States in any of the laws thereof.

It is evident, however, that all those who constituted the people of the several States at the time the constitution went into operation were citizens of the United States, and were so termed by it; and all persons born within the United States, whose fathers were at the time of such birth citizens thereof, are likewise citizens of the United States.

But the question presents itself, are persons born within the United States, whose fathers at the time of such birth were aliens, citizens thereof?

In *Lynch v. Clark*² the vice-chancellor held that the common-law doctrine — that the place of birth and not the nationality of the father determined the political *status* of the child — was applicable to the United States, constituted a part of the jurisprudence thereof, and that accordingly a person born within the United States, whose father at the time of such birth was an alien, was a citizen of the United States. This case, aside from its fallacious and unsound reasoning, can not be upheld upon principle. It is well settled that the common law is not part of the jurisprudence of the United States.³

In *Wheaton v. Peters* the Supreme Court say: "It is clear

¹This question does not, of course, relate to the children born within the United States, whose fathers at the time of such birth were representing foreign nations within the United States; such children are deemed, by the fiction of ex-territoriality to be born within the power and obedience of the nation which their fathers represent. *Wheaton on International Law*, sect. 224.

²1 Sandf. Ch. 584. See, also, *U. S. v. Rhodes*, 1 Abb. U. S. 40.

³*Wheaton v. Peters*, 8 Pet. 657; *Kendall v. U. S.*, 12 Pet. 524; *Lounan v. Clarke*, 2 McLean, 572; *U. S. v. New Bedford*, 1 Wood. & M. 438; *People v. Folsom*, 5 Cal. 879.