

United States of America Is Not a Private Corporation: Analysis of the “Act of 1871” Nonsense

by Larry Becraft



For almost the last 20 years, there has been frequently circulated among concerned Americans a baseless argument that the United States of America, and indeed all state, county and municipal governments, are private corporations. This argument is nothing but pure mythology and has misled too many innocents. The argument fails to recognize the clear history of corporations, which recognizes the fact that there are both public corporations and privately owned corporations. Let me explain.

The concept of corporations was developed centuries ago when Rome was becoming an empire. As geographical areas became populated and formed into small towns and cities, there was a need for formal and established governmental institutions. The first corporations were cities empowered to adopt and enforce laws for the local community. That local government was recognized as a separate, legally existing “person” in the eyes of the law. That separate entity could own property, enforce laws it had adopted, and engage in the many acts of “governance.” It was an artificial “person” separate and distinct from the humans that composed it. No human being “owned” that municipal government.

But this concept of a legally recognized, artificial “person”

was also suitable for large commercial enterprises, and thus some of these businesses of antiquity were eventually recognized as distinct, legal “persons” separate and different from the people who operated and owned them. The profits or losses of a particular business were shared among the owners. The above few statements do not fully explain the complicated history of public and private corporations, and if you wish to learn more, please read this law review article: [The Status of the Municipal Corporation in American Law](#). But certainly, history reveals the establishment of public corporations, which nobody owns, and private corporations, that are privately owned.

During Medieval times, monarchs granted exclusive privileges to certain businesses, and they typically were private corporations or trusts. During these times, there were no general laws that allowed private corporations to be formed in a different manner. At the time of the Revolutionary War and thereafter, all private corporations were specifically created by legislative act. But, this manner of creating private corporations was eventually replaced starting in the 1870s when legislatures enacted laws that permitted private corporations to be created by a specific process authorized by state law, usually by submitting certain types of papers with some public official like a Secretary of State. By doing this, a legally recognized “person”, a private corporation, was thus created. To identify a business as a private corporation, more recent laws have required the corporation to include “Inc.” in its name.

But, what is Washington, D.C.? Is it or the United States a private corporation? Was this private corporation created by the “Act of 1871”?

At the time of the Revolutionary War, the Congress established by the [Articles of Confederation](#) met in Philadelphia. In the summer of 1783, soldiers demanding payment from Congress for their services during the war marched on that Congress sitting

at Independence Hall, creating a tumult. In response to this [Pennsylvania Mutiny](#), Congress fled to Princeton, N.J., and later to Annapolis. This event demonstrated a need for a separate capital for the United States which was not within the jurisdiction of a State. When the [Philadelphia Convention](#) met in 1787, its members remembered this event and concluded that there must be an established capital for the United States, its size being 10 miles square. See [Art. 1, § 8, cl. 17](#). See also this [website](#) discussing the multitude of cases involving this provision of the Constitution. Gradually after the first Congress met, steps were taken to create this “home city” for Congress and the Government of the United States.

The Residence Act of 1790 ([1 Stat. 130](#), July 16, 1790), started the process of establishing the District of Columbia, but in the interim, the United States government continued to meet in Philadelphia. On December 19, 1791, Maryland adopted “An Act concerning the territory of Columbia, and the City of Washington,” which ceded lands and jurisdiction for the Maryland part of the District. President Washington played a critical role in the selection of the actual site of the District, as well as laying out the plans for the city. Finally, on February 27, 1801, [2 Stat. 103](#), Congress adopted an act concerning the District, and created two counties, Washington County on the Maryland side, and Alexandria County on the Virginia side. See also amendments to this act, [2 Stat. 115](#), and [2 Stat. 193](#). On May 1, 1802, the then existing Board of Commissioners for the District was abolished, replaced with a superintendent under the control of the President. See [2 Stat. 175](#). On May 3, 1802, Congress adopted an act to incorporate the city of Washington in the District. See [2 Stat. 195](#), and amendments at [2 Stat. 254](#) and [422](#). For some of the other acts regarding the District, see [3 Stat. 691](#), [4 Stat. 294](#), and [4 Stat. 517](#).

This was the form of government for the District until February 21, 1871. On this date, Congress adopted a new act

for the government of the District. See [16 Stat. 419-429](#). As seen by a simple review of this act, it did not create a government for anything but the District of Columbia, it wasn't a private corporation, and it certainly did not purport to be a government for "federal" citizens living in the States. See also the first couple of pages from the [1873 Revised Statutes for the District of Columbia](#).

Scandal was the reason that this form of government for the District lasted only a mere 7 years. After the act of February 21, 1871, public officials of the District incurred tremendous debts for the District, eventually requiring Congress to take over that government. See [18 Stat. \(Part 3\) 116, ch. 337](#), for repeal of 1871 act. An act of June 11, 1878, [20 Stat. 102](#), provided "a permanent form of government for the District of Columbia." Much later, the District of Columbia Home Rule Act, Public Law 93-198, [87 Stat. 774](#), approved December 24, 1973, created the government for the District which exists today.

What has the Supreme Court stated about the "Act of 1871"? In [District of Columbia v. Camden Iron Works](#), 181 U.S. 453 (1901), the Court held:

"June 20, 1874, an act was passed entitled 'An Act for the government of the District of Columbia, and for Other Purposes.' 18 Stat. 116, c. 337. By this act, the government established by the act of 1871 was abolished and the President, by and with the advice and consent of the Senate, was authorized to appoint a Commission, consisting of three persons, to exercise the power and authority vested in the governor and the board of public works, except as afterwards limited by the act."

For a number of years, there have been individuals claiming that the "Act of 1871" created a private corporation known as the United States of America, Inc., USA, Inc., or some other similar name. It was obvious that the parties making this argument had never read the actual 1871 act of Congress

because they never provided a citation to the act. They also attempted to describe what the act provided, but these descriptions were false. This argument has been created for the purpose of misleading people with false information. Regrettably, this has become a common occurrence in today's America.

How was the federal government of United States of America created? It was preceded by the government of the United States of America established by the [Article of Confederation](#). That government proved to be ineffective, and in the summer of 1787, delegates from the States then in the Union met in Philadelphia to form a more perfect Union. The product of that convention was the United States Constitution, submitted to the Articles Congress on September 17, 1787. Nine States ratified that proposed Constitution by [June 21, 1788](#), and it then became effective. George Washington became the first President of that government of the United States of America, and the first Congress convened in March, 1789. Since then, the federal government of the United States of America has been operating. It is not a private corporation as some illiterate people may think.

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