

Distinctions Between Proprietary and Governmental Functions of Government

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The dividing line between what constitutes a governmental function and what constitutes a proprietary function of the government is not always clear-cut, especially because of the ever-increasing scope of governmental activity and the growing trend towards the assumption by private entities of certain functions that have been traditionally deemed as that of the government. The distinction is crucial for it determines what laws are applicable and what rights are capable of being invoked, both of which depend upon the classification of an entity as either performing a governmental or a proprietary function.

The Author presents several tests for determining the nature of an entity's functions. These tests vary in the methods used, some even presenting extremes as when one focuses on the duties imposed by the Constitution while the other makes as its central point of determination the amount and nature of the profits earned.