

# Two State Citizens in every State of the Union

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Before the adoption of the Fourteenth Amendment to the Constitution of the United States (of America), one was considered a citizen of a State **as well as** a citizen of the United States. As such, one owe allegiance to both the individual State government as well as the United States government:

“... Every citizen of a State owes a double allegiance; he enjoys the protection and participates in the government of both the State and the United States.” Houston v. Moore: 18 U.S. (5 Wheat.) 1, at 33; concurring opinion of Justice Johnson (1820).

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“... Every citizen of the United States is also a citizen of a state . . . . He may be said to owe allegiance to **two sovereigns**, and may be liable to punishment for an infraction of the laws of either.” Moore v. State of Illinois: 55 U.S. (Howard 14) 13, at 20 (1852).

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After the adoption of the Fourteenth Amendment, the Supreme Court in the *Slaughterhouse Cases*, held that citizenship of a State was separate and distinct from citizenship of the United States. **[Footnote 1]** That a citizen of a State was separate and distinct from a citizen of the United States. **[Footnote 2]**

By force of the Fourteenth Amendment; at Section 1, Clause 1, a citizen of the United States residing in a State of the Union, becomes a citizen of a State also; that is, a citizen of the United States **and** a citizen of a State:

“The fourteenth Amendment declares that citizens of the United States are citizens of the State within which they reside; therefore the plaintiff was, at the time of making her application, a citizen of the United States **and** a citizen of the State of Illinois.” Bradwell v. State of Illinois: 83 U.S. 130, at 138 (1873) **[Footnote 3]**

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As such a citizen of the United States, as a citizen of the United States **and** a citizen

of a State [\[Footnote 4\]](#) owes allegiance to the individual State government and the United States government:

“... [The government of the United States] can neither grant nor secure to its citizens any right or privilege not expressly or by implication placed under its jurisdiction.

[A citizen] of the United States resident within any State [is] subject to two governments: one State, and the other National; but there need be no conflict between the two. The powers which one possesses, the other does not. They are established for different purposes, and have separate jurisdictions. Together they make one whole, and furnish the [citizens] of the United States with a complete government, ample for the protection of all their rights at home and abroad. True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance, and that of the State by the breach of peace, in the assault. So, too, if one passes counterfeited coin of the United States within a State, it may be an offence against the United States and the State: the United States, because it discredits the coin; and the State, because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common, or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties, and claims protection from both. The citizen cannot complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction.” United States v. Cruikshank: 92 U.S. 542, at 550 thru 551 (1875).

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A citizen of a State, since the adoption of the Fourteenth Amendment, is entitled to privileges and immunities of a citizen of the several States under Article IV, Section 2, Clause 1 of the Constitution:

“There can be no doubt that Balk, as a citizen of the State of North Carolina, had the right to sue Harris in Maryland to recover the debt which Harris owed him. Being a citizen of North Carolina, he was entitled to all the

privileges and immunities of citizens of the several States, one of which is the right to institute actions in the courts of another State.” Harris v. Balk: 198 U.S. 215, at 223 (1905).

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Therefore, a citizen of a State is also a citizen of the several States [**Footnote 5**]:

“The intention of section 2, Article IV (of the Constitution), was to confer on the citizens of the several States a general citizenship, and to communicate all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances, and this includes the right to institute actions.” Cole v. Cunningham: 133 U.S. 107, at 113 thru 114 (1890).

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Therefore, in any State of the Union, there are two State citizens [**Footnote 6**], a citizen of a State (*as well as* a citizen of the several States (Article IV, Section 2, Clause 1)), and, a citizen of the United States *and* citizen of the State (Fourteenth Amendment). Each owes allegiance to the individual State government:

“Because the ordinance and specifications, under which the paving in this case was done, require the contractor to employ only bona fide resident citizens of the city of New Orleans as laborers on the work, it is contended, on behalf on the plaintiff in error, that thereby ***citizens of the State of Louisiana, and of each and every State and the inhabitants thereof, are deprived of their privileges and immunities under article 4, sec. 2, and under the Fourteenth Amendment to the Constitution of the United States.*** It is said that such an ordinance deprives every person, not a bona fide resident of the city of New Orleans, of the right to labor on the contemplated improvements, and also is prejudicial to the property owners, because, by restricting the number of workmen, the price of the work is increased.

Such questions are of the gravest possible importance, and, if and when actually presented, would demand most careful consideration; but we are not now called upon to determine them.

In so far as the provisions of the city ordinance may be claimed to affect the rights and privileges of citizens of Louisiana and of the other States, the plaintiff in error is in no position to raise the question. It is not alleged, nor does it appear, that he is one of the laborers excluded by the ordinance from employment, or that he occupies any representative relation to them.

Apparently he is one of the preferred class of resident citizens of the city of New Orleans.” Chadwick v. Kelley: 187 U.S. 540, at 546 (1903).

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A citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution of the United States (of America), as a citizen of the several States, is a citizen of all the States, generally. Therefore, a citizen of a State, as a citizen of the several States, owes allegiance to all the States of the Union; that is, the several States. That the several States are separate and distinct from the United States is shown in the following provision of the Constitution of the United States (of America):

“The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States.” Article II, Section 2, Clause 1 of the Constitution of the United States (of America).

[http://www.archives.gov/exhibits/charters/constitution\\_transcript.html](http://www.archives.gov/exhibits/charters/constitution_transcript.html)

Therefore, since the adoption of the Fourteenth Amendment, one changed from being a citizen of a State **as well as** a citizen of the United States to being either a citizen of a State **or** a citizen of the United States. In addition, under Section 1, Clause 1 of the Fourteenth Amendment, one who is a citizen of the United States can become also a citizen of a State by residing in a State, that is, a citizen of the United States **and** a citizen of a State. Under Article IV, Section 2, Clause 1, a citizen of a State is now a citizen of the several States, that is, a citizen of a State **as well as** a citizen of the several States. So in every State in the Union, there are two state citizens; a citizen of the United States under Section 1, Clause 1 of the Fourteenth Amendment and a citizen of the several States under Article IV, Section 2, Clause 1 of the Constitution.

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#### Footnotes:

1. This was done so *Dred Scott* would not apply. In that case, citizenship of a State and citizenship of the United States were considered to be one in the same.

2. “Section 2 of article 4 of the constitution of the United States declares that ‘the

citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.’ ***In this there is no striking down of or limitation upon the right of a state to confer such immunities and privileges upon its citizens as it may deem fit.*** The clause of the constitution under consideration is protective merely, not destructive, nor yet even restrictive. Over and over again has the highest court of the United States so construed this provision. Thus, in the *Slaughter-house Cases*, 16 Wall. 36, it is said: “The constitutional provision there alluded to did not create those rights which it called privileges and immunities of citizens of the states. . . . ***Nor did it profess to control the power of the state governments over the rights of its own citizens.*** Its sole purpose was to declare to the several states that whatever rights, as you grant or establish them to your own citizens, or as you limit or qualify or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other states within your jurisdiction”: See, also, *Blake v. McClung*, 172 U.S. 239, 19 Sup. Ct. Rep. 165; *Ward v. Maryland*, 12 Wall. 418.” *In Re Johnson Estate*: 96 Am. State Rep. 161, at 164; 73 Pac. Rep. 424; 139 Cal. 532 (1903).

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“... There is a difference between the privileges and immunities belonging to the citizens of the United States as such, and those belonging to the citizens of each state as such. The privileges and immunities of citizens of the United States are those which arise out of the nature and essential character of the national government, the provisions of its constitution, or its laws and treaties made in pursuance thereof; and it is these rights which are placed under the protection of congress by the fourteenth amendment. *People v. Loeffler*, 175 Ill. 585, 51 N. E. 785; *Slaughter-House Cases*, 16 Wall. 36, 21 L. Ed. 394. The right to use or display the flag (of the United States) would seem to be a privilege of a citizen of the United States, rather than the privilege of a citizen of any one of the states.” *Ruhstrat v. People*: 57 N.E. 41, at 45; 185 Ill. 133 (1900).

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In accord:

“The act was considered in *Johnson v. United States*, 160 U.S. 546, and we there held that a person who was not a citizen of the United States at the time of an alleged appropriation of his property by a tribe of Indians was not entitled to maintain an action in the Court of Claims under the act in question. There was not in that case, however, any assertion that the claimant was a citizen of a State as distinguished from a citizen of the United States. . . . [U]ndoubtedly in a purely technical and abstract sense citizenship of one of the States may not include citizenship of the United States . . . Unquestionably, in the general and common

acceptation, a citizen of the State is considered as synonymous with citizen of the United States, and the one is therefore treated as expressive of the other. This flows from the fact that the one is normally and usually the other, and where such is not the case, it is purely exceptional and uncommon.” United States v. Northwestern Express, Stage & Transportation Company: 164 U.S. 686, 688 (1897).

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“As a man may be a citizen of a State without being a citizen of the United States, and as Section 1428, Revised Statutes, requires all officers of all United States vessels to be citizens of the United States, all officers of the Naval Militia must be male citizens of the United States as well as of the respective States, Territories, of the District of Columbia, of more than 18 and less than 45 years of age.” General Orders of Navy Department (Series of 1913); Orders remaining in force up to January 29, 1918; General Order No. 153, Page 17, Para 73.

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**3.** In addition, in a legal proceeding in federal court between a citizen of the United States and a citizen of a State, a citizen of the United States is to aver that he or she is a citizen of the United States **and** a citizen of a State of the Union, a citizen of a State is to state that he or she is a citizen of the Union:

“The bill filed in the Circuit Court by the plaintiff, McQuesten, alleged her to be ‘a citizen of the United States **and** of the State of Massachusetts, and residing at Turner's Falls in said State,’ while the defendants, Steigleder and wife were alleged to be ‘citizens of the State of Washington, and residing at the city of Seattle in said State.’ Steigleder v. McQuesten: 198 U.S. 141 (1905), *Statement of the Case*.

“The averment in the bill that the parties were citizens of different States was sufficient to make a *prima facie* case of jurisdiction so far as it depended of citizenship.” Steigleder v. McQuesten: 198 U.S. 141 (1905), *Opinion*, at 142.

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**4.** “... The same person may be at the same time a citizen of the United States **and** a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. *Slaughter-House Cases*, 16 Wall. 74.” United States v. Cruikshank: 92 U.S. 542, at 549 (1875).

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5. Privileges and immunities of citizen of a State are located in the constitution and laws of an individual State:

“... Whatever may be the scope of section 2 of article IV — and we need not, in this case enter upon a consideration of the general question — the Constitution of the United States does not make the privileges and immunities enjoyed by the citizens of one State under the constitution and laws of that State, the measure of the privileges and immunities to be enjoyed, as of right, by a citizen of another State under its constitution and laws.” McKane v. Durston: 153 U.S. 684, at 687 (1894).

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Privileges and immunities of a citizen of the several States are those described in *Corfield v. Coryell* decided by Mr. Justice Washington in the Circuit Court for the District of Pennsylvania in 1823:

“In the *Slaughter House Cases*, 16 Wall. 36, 76, in defining the privileges and immunities of citizens of the several States, this is quoted from the opinion of Mr. Justice Washington in *Corfield v. Coryell*, 4 Wash. Cir. Ct. 371, 380.”  
Hodges v. United States: 203 U.S. 1, at 15 (1906).

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The location for these privileges and immunities is Article IV, Section 2, Clause 1 of the Constitution:

“Fortunately we are not without judicial construction of this clause of the Constitution (Article IV, Section 2, Clause 1). The first and leading case of the subject is that of *Corfield v. Coryell*, decided by Mr. Justice Washington in the Circuit Court for the District of Pennsylvania in 1823.

‘The inquiry,’ he says ‘is, what are the privileges and immunities of citizens of the several States? ...

This definition of the privileges and immunities of citizens of the States is adopted in the main by this court in the recent case of *Ward v. The State of Maryland*.” Slaughterhouse Cases: 83 (16 Wall.) 36, at 75 thru 76 (1873).

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6. "The Constitution forbids the abridging of the privileges of a citizen of the United States, but does not forbid the state from abridging the privileges of its own citizens.

The rights which a person has as a citizen of the United States are those which the Constitution and laws of the United States confer upon a citizen as a citizen of the United States. For instance, a man is a ***citizen of a state*** by virtue of his being resident there; but, if he moves into another state, he becomes at once a citizen there by operation of the Constitution (Section 1, Clause 1 of the Fourteenth Amendment) making him a citizen there; and needs no special naturalization, which, but for the Constitution, he would need.

On the other hand, the rights and privileges which a ***citizen of a state*** has are those which pertain to him as a member of society, and which would be his if his state were not a member of the Union. Over these the states have the usual power belonging to government, subject to the proviso that they shall not deny to any person within the jurisdiction (i.e., to their own citizens, the citizens of other states, or aliens) the equal protection of the laws. These powers extend to all objects, which, in the ordinary course of affairs, concern the lives, liberties, privileges, and properties of people, and of the internal order, improvement, and prosperity of the state. *Federalist, No. 45*" Hopkins v. City of Richmond: 86 S. E. Rep. 139, at 145; 117 Va. 692; Ann. Cas. 1917D, 1114 (1915), citing the entire opinion of *Town of Ashland v. Coleman*, in its opinion (*per curiam*); overruled on other grounds, *Irvine v. City of Clifton Forge*: 97 S. E. Rep. 310, 310; 124 Va. 781 (1918), citing the Supreme Court of the United States case of *Buchanan v. Warley*, 245 U.S. 60; 38 Sup. Ct. 16, 62 L. Ed. 149.

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*Town of Ashland v. Coleman*:

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"... It is contended that the 1st section of the Fourteenth Amendment has been violated? That section declares that 'all persons born in the United States are citizens of the United States and the State wherein they reside,' and provides that 'no State shall make or enforce any law which shall abridge the privileges or citizens of the United States, nor deny to any person within its jurisdiction the equal protection of the laws.' This section, after declaring that all persons born in the United States shall be citizens (1) of the United States and (2) of the State wherein they reside, goes on in the same sentence to provide that no State shall abridge the privileges of citizens of the United States; but does not go on to forbid a State from abridging the privileges of its own citizens. Leaving the matter of abridging the

privileges of its own citizens to the discretion of each State, the section proceeds, in regard to the latter, only to provide that no State 'shall deny to any person within its jurisdiction the equal protection of the laws. . . .

The rights which a person has a ***citizen of a State*** are those which pertain to him as a member of society, and which would belong to him if his State were not a member of the American Union. Over these the States have the usual powers belonging to government, and these powers 'extend to all objects,,which, in the ordinary course of affairs, concern the lives, liberties, (privileges), and properties of people; and of the internal order, improvement, and prosperity of the State. *Federalist, No. 45. . . .*

On the other hand, the rights which a person has as a citizen of the United States are such as he has by virtue of his State being a member of the American Union under the provisions of our National Constitution. For instance, a man is a ***citizen of a State*** by virtue of his being native and resident there; but, if he emigrates into another State he becomes at once a citizen there by operation of the provision of the Constitution (Section 1, Clause 1 of the Fourteenth Amendment) making him a citizen there; and needs no special naturalization, which, but for the Constitution, he would need to become a citizen." Ex Parte Edmund Kinney: 3 Hughes 9, at 12 thru 14 (1879) [4th cir ct Va.].

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