

Diversity of Citizenship: Who is a Citizen of a State?

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Author's Note:

By force of the Fourteenth Amendment, a citizen of the United States residing in a state of the Union becomes a citizen of that state. A citizen of the several States domicile in an individual state becomes by Article IV, Section 2, Clause 1, a citizen of that state.

Therefore, a citizen of the United States and a citizen of the several States, being citizens of a State, can under the Constitution of the United States, at Article III, Section 2, Clause 7 (Citizens of different States), sue one another if they are a citizen of a different State of the Union.

The Fourteenth Amendment was declared ratified on July 28, 1868. ([Footnote 1](#)) Its main purpose was to make black slaves, freed under the Thirteenth Amendment, citizens under the Constitution of the United States.

The authors of the Fourteenth Amendment intended it to make the Black man, a citizen of the United States, in the same capacity as the White man. ([Readings 1](#)) It was designed to settle the issue raised in *Dred Scott*, that is, who is a citizen of the United States. ([Footnote 2](#)) However, the Supreme court decided differently.

In the *Slaughterhouse Cases*, the Supreme court instead of concluding that the Fourteenth Amendment made all blacks and whites, citizens of the United States, as well as citizens of the state where they resided, entitled under Article IV, Section 2, Clause 1 of the Constitution, to “privileges and immunities of citizens in the several States,” held that because of the Fourteenth Amendment there were now two citizens under the Constitution of the United States; a citizen of the United States, under the Fourteenth Amendment and a citizen of the several States, under Article IV, Section 2, Clause 1. ([Footnote 4](#)) The last was later reaffirmed in *Cole v. Cunningham*:

“The intention of section 2, Article IV (of the Constitution), was to confer on the *citizens of the several States* a general citizenship.” *Cole v. Cunningham*: 133 U.S. 107, 113-114 (1890).

By force of the Fourteenth Amendment, a citizen of the United States residing in a state of the Union becomes a citizen of that state. As such he or she would have privileges and immunities found in the

Fourteenth Amendment (at section 1, clause 2) plus those privileges and immunities provided for under the constitution and laws of the state where he or she resides. A citizen of the several States domicile in an individual state becomes by Article IV, Section 2, Clause 1, a citizen of that state. As such he or she would have privileges and immunities located in Article IV, Section 2, Clause 1, plus those privileges and immunities provided for under the constitution and laws of the state where he or she is domicile.

A citizen of the United States is to identified his citizenship in a federal court by averring that he or she is a citizen of the United States and a citizen of a State of the Union. In *Bradwell v. the State of Illinois* (83 U.S. 130, at 138), Justice Miller, writes:

“The Fourteenth Amendment declares that citizens of the United States are citizens of the state within 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.”

A citizen of the several States is to state that he or she is a citizen of a State 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.’ *Steigleider v. McQuesten*: 198 U.S. 141 (1905), *Syllabus*. “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.” *Opinion*, page 142.

Therefore, a citizen of the United States and a citizen of the several States, being citizens of a State, can under the Constitution of the United States, at Article III, Section 2, Clause 7 (Citizens of different States), sue one another if they are a citizen of a different State of the Union.

Footnotes:

(1) “The Senate passed the 14th Amendment on June 8, 1866, by a vote of 33 to 11, while the House of Representatives passed the 14th Amendment on June 13, 1866, by a vote of 120 to 32. On July 28, 1868, Secretary of State William Seward issued a proclamation certifying the ratification of the 14th Amendment by the states.”

<http://www.loc.gov/rr/program/bib/ourdocs/14thamendment.html>

(2) Unfortunately, for the authors of the Fourteenth Amendment it did not do so. The authors were aware of the *Dred Scott* case. Senator Johnson was counsel for the defense in the *Dred Scott* case. The *Dred Scott* court held that a Negro of slave descent, was not considered a citizen of the several States when the Constitution **WAS ADOPTED**. And since he was not considered a citizen of the several States he was also not considered a citizen of the United States.

([Readings 2](#)) . . . The Fourteenth Amendment makes no reference in section 1, clause 1 to “all persons born or naturalized in the United States” **AFTER THE ADOPTION OF THIS CONSTITUTION**. ([Footnote 3](#)) Because of this oversight by the authors of this amendment, when the Fourteenth Amendment came to the Supreme Court, in the *Slaughterhouse Cases*, the Court had to construe it in a different manner to avoid conflict with its holding in the *Dred Scott* case.

(3) At Article II, Section 5, Clause 1, it states:

“No person except a natural born Citizen, or a Citizen of the United States **AT THE TIME OF THE ADOPTION OF THIS CONSTITUTION**, shall be eligible to the Office of President.”

(4) “[*397] The Constitution of the United States contains provisions which are important in this connection. One of these is, that the citizens of each State shall be entitled to all the {page 491} privileges and immunities of citizens of the several States,^[1] and all persons born or naturalized in the United States, and subject to its jurisdiction, are declared to be citizens thereof, and of the State wherein they reside. ^[2] The States are also forbidden to make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States. ^[3]

1. Const. of United States, art. 4 §2. See also pp. *15*16.

2. Const. of United States, 14th Amendment.

3. The line of distinction between the privileges and immunities of citizens of the United States and those of citizens of the several States must be traced along the boundary of their respective spheres of action, and the two classes must be as different in their nature as are the functions of the respective governments. . . .”

Source: Thomas McIntyre Cooley, *A Treatise on the Constitutional Limitations which Rest Upon the Legislative Power of the States of the American Union*, Fifth edition, Boston: Little, Brown, and Co., 1883. lxxxii, 886pp, pages 490 through 491. (Reprinted 1998 by The Lawbook Exchange, Ltd. LCCN 98-12730. ISBN 1-886363-53-6.)

<http://books.google.com/books?id=SsfVDTkdPY4C&printsec=frontcover#PPA490,M1>

Readings:

(1) Jon Roland, “Intent of the Fourteenth Amendment was to Protect All Rights,” September 24, 2000,

http://www.constitution.org/col/intent_14th.htm

(2) Dan Goodman, “From Dred Scott to Slaughterhouse”, at:

(<http://www.jdsupra.com/post/documentViewer.aspx?fid=9d907fef-a73d-44a5-8b90-41dfe28f1fa2>)