

An Overview of Citizenship in the United States since the Adoption of the Fourteenth Amendment

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Since the Adoption of the Fourteenth Amendment, there are three sets of privileges and immunities in the United States. This is shown in the *Slaughterhouse Cases*:

“... Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it

It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual. . . .

Of the *privileges and immunities of the citizen of the United States*, and of the *privileges and immunities of the citizen of the State*, and what they respectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause (first section, second clause) under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the (Fourteenth) amendment. . . .” *Slaughterhouse Cases*: 83 (16 Wall.) 36, at 74 (1873).

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And:

“We think this distinction and its explicit recognition in this [the Fourteenth] Amendment of great weight in this argument, because the next paragraph of this same section (first section, second clause), which is the one mainly relied on by the plaintiffs in error, speaks only of *privileges and immunities of citizens of the United States*, and does not speak of those (*privileges and immunities of citizens of the several states*). The argument, however, in favor of the plaintiffs, rests wholly on the assumption that the citizenship is the same and the privileges and immunities guaranteed by the clause are the same. . . .

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 74, 76 (1873). (See [Note 1](#))

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The three sets of privileges and immunities are: privileges and immunities of a citizen of the United States; privileges and immunities of a citizen of a State; privileges and immunities of a citizen of the several States.

Privileges and immunities of a citizen of the United States are located at Section 1, Clause 2 of the Fourteenth Amendment:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

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).

<http://books.google.com/books?id=HuEGAAAAYAAJ&pg=PA15#v=onepage&q=&f=false>

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).

<http://books.google.com/books?id=DkgFAAAAYAAJ&pg=PA75#v=onepage&q=&f=false>

Corresponding to these three sets of privileges and immunities are three citizenships; citizenship of the United States, citizenship of a State, and citizenship of the several States.

Citizenship of the United States is located at Section 1, Clause 1 of the Fourteenth Amendment:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States."

Citizenship of a State is recognized at the following provisions of the Constitution:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Section 1, Clause 1 of the Fourteenth Amendment.

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Article IV, Section 2, Clause 1 of the Constitution of the United States (of America).

Citizenship of the several States is designated at Article IV, Section 2, Clause 1 of the Constitution of the United States (of America):

“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 thru 114 (1890).

<http://books.google.com/books?id=oGYUAAAAYAAJ&pg=PA113#v=onepage&q=&f=false>

Thus, for a citizen of the United States:

Its privileges and immunities are located at Section 1, Clause 2 of the Fourteenth Amendment and its citizenship is located at Section 1, Clause 1 of the Fourteenth Amendment.

For a citizen of a State:

Its privileges and immunities are to be found with the individual State's constitution and laws, its citizenship is to be found with the individual State's constitution and laws and to be found at Section 1, Clause 1 of the Fourteenth Amendment and Article IV, Section 2, Clause 1 of the Constitution of the United States (of America).

And for a citizen of the several States:

Its privileges and immunities are designated at Article IV, Section 2, Clause 1 of the Constitution (*Hodges v. United States*, 203 U.S. 1, at 15), its citizenship is designated at Article IV, Section 2, Clause 1 of the Constitution (*Cole v. Cunningham*, 133 U.S. 107, at 113 thru 114).

The privileges and immunities of a citizen of the United States arise "out of the nature and essential character of the Federal government, and granted or secured by the Constitution." Duncan v. State of Missouri: 152 U.S. 377, 382 (1894).

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The privileges and immunities of a citizen of a State are to be found with the individual State's constitution and laws. (*McKane v. Durston*, supra)

The privileges and immunities of a citizen of the several States are those described in *Corfield v. Coryell* by Mr. Justice Washington. (*Hodges v. United States*, supra)

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

“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).

<http://books.google.com/books?id=ceIGAAAAYAAJ&pg=PA223#v=onepage&q=&f=false>

"It has never been supposed that regulations of that character materially interfered with the enjoyment by citizen of each state of the privileges and immunities secured by the constitution to citizens of the several States. The constitution forbids only such legislation affecting citizens of the respective states as will substantially or practically put a citizen of one state in a condition of alienage when he is within or when he removes to another state, or when asserting in another state the rights that commonly appertain to those who are part of the political community known as the People of the United States, by and for whom the government of the Union was ordained and established." Blake v. McClung: 172 U.S. 239, 256 thru 257 (1898).

<http://books.google.com/books?id=G2oUAAAAYAAJ&pg=PA256#v=onepage&q=&f=false>

Thus a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, is also a citizen of the several States.

A citizen of the United States can become also a citizen of a State by residing in a State of the Union. As such a citizen of the United States, would be a citizen of the United States AND a citizen of a State, and this would be under Section 1 (Clause 1) of the Fourteenth Amendment:

"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.

We do not here mean to say that there may not be a temporary residence in one State, with intent to return to another, which will not create citizenship in the former. But the plaintiff states nothing to take her case out of the definition of citizenship of a State as defined by the first section of the fourteenth amendment." Bradwell v. State of Illinois: 83 U.S. 130, at 138 (1873).

<http://books.google.com/books?id=DkgFAAAAYAAJ&pg=PA138#v=onepage&q=&f=false>

A citizen of the United States is not entitled to the privileges and immunities of a citizen of the several States, either residing in a State, or not.

If not residing in a State, a citizen of the United States is just a citizen of the United

States. However Article IV, Section 2, Clause 1 of the Constitution states:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

Since a citizen of the United States is not a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, then a citizen of the United States would not be entitled to privileges and immunities of a citizen of the several States.

If residing in a State, a citizen of the United States is under Section 1, Clause 1 of the Fourteenth Amendment, a citizen of the United States AND a citizen of a State. As stated in *Bradwell v. State of Illinois*, supra:

"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."

Also, in *Skiriotos v. State of Florida*:

"In the light of appellant's statements to the federal court, judicially recited, and upon the present record showing his long residence in Florida and the absence of a claim of any other domicile or of any foreign allegiance, we are justified in assuming that he is a citizen of the United States AND of Florida." *Skiriotos v. State of Florida*: 313 U.S. 69, at 72 (1941).

<http://www.loislaw.com/advsrny/doclink.htm?alais=USCASE&cite=313+U.S.+69>

And, in *Screws v. United States*:

"This case involves a shocking and revolting episode in law enforcement. Petitioner Screws was sheriff of Baker County, Georgia. He enlisted the assistance of petitioner Jones, a policeman, and petitioner Kelley, a special deputy, in arresting Robert Hall, a citizen of the United States AND of Georgia." *Screws v. United States*: 325 U.S. 91, at 92 (1945).

<http://www.loislaw.com/advsrny/doclink.htm?alais=USCASE&cite=325+U.S.+91>

However Article IV, Section 2, Clause 1 of the Constitution states:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

A citizen of the United States residing in a State, is under Section 1, Clause 1 of the Fourteenth Amendment, a citizen of the United States AND a citizen of a State. However Article IV, Section 2, Clause 1 of the Constitution provides that only a citizen of a State is entitled to privileges and immunities of a citizen of the several

States. Since a citizen of the United States, under Section 1, Clause 1 of the Fourteenth Amendment, is citizen of the United States AND a citizen of a State, and not a citizen of a State, then a citizen of the United States, under the Fourteenth Amendment is not entitled to privileges and immunities of a citizens of a several States, under Article IV, Section 2, Clause 1 of the Constitution.

A citizen of the United States is entitled to privileges and immunities of citizens in the several States. However, this is a privilege under Section 1, Clause 2 of the Fourteenth Amendment, and not Article IV, Section 2, Clause 1 of the Constitution:

“As applied to a citizen of another State, or to a citizen of the United States residing in another State, a state law forbidding sale of convict made goods does not violate the privileges and immunities clauses of Art. IV, Sec. 2 and the Fourteenth Amendment of the Federal Constitution if it applies also and equally to the citizens of the State that enacted it.” [Syllabus] Whitfield v. State of Ohio: 297 U.S. 431 (1936).

“The court below proceeded upon the assumption that petitioner was a citizen of the United States; and his status in that regard is not questioned. The effect of the privileges and immunities clause of the Fourteenth Amendment, as applied to the facts of the present case, is to deny the power of Ohio to impose restraints upon citizens of the United States resident in Alabama in respect of the disposition of goods within Ohio, if like restraints are not imposed upon citizens resident in Ohio.

The effect of the similar clause found in the Fourth Article of the Constitution (section 2), as applied to these facts, would be the same, since that clause is directed against discrimination by a state in favor of its own citizens and against the citizens of other states. *Slaughterhouse Cases* (Live-Stock Dealers' & Butchers' Ass'n v. Crescent City Live-Stock Landing & Slaughter-House Co.), Fed.Cas. No. 8,408, 1 Woods 21, 28; *Bradwell v. State of Illinois*, 16 Wall. 130, 138.” [Opinion] Whitfield v. State of Ohio: 297 U.S. 431, 437 (1936).

<http://www.loislaw.com/advsrny/doclink.htm?alais=USCASE&cite=297+U.S.+431>

A citizen of the several States is not entitled to the privileges and immunities of a citizen of the United States. Privileges and immunities of a citizen of the United States can only be obtained by being born in the United States, or by being naturalized in the United States.

Since a citizen of the United States is not entitled to privileges and immunities of a citizen of the several States, and a citizen of the several States is not entitled to privileges and immunities of a citizen of the United States, then only a citizen of the United States is entitled to privileges and immunities of a citizen of a State (Section

1, Clause 1 of the Fourteenth Amendment) and a citizen of a State is entitled to privileges and immunities of a citizen of the several States (Article IV, Section 2, Clause 1 of the Constitution).

So there is a citizen of the United States AND a citizen of a State, under Section 1, Clause 1 of the Fourteenth Amendment, and there is a citizen of a State AS WELL AS a citizen of the several States, under Article IV, Section 2, Clause 1 of the Constitution.

Therefore, at the State level, there are two state citizens: one who has privileges and immunities of a citizen of the United States (Section 1, Clause 1 of the Fourteenth Amendment) and one who has privileges and immunities of a citizen of the several States (Article IV, Section 2, Clause 1 of the Constitution):

“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).

<http://books.google.com/books?id=bdkGAAAYAAJ&pg=PA546#v=onepage&q=&f=false>

And there are two citizens under the Constitution of the United States (of America), both of whom have privileges and immunities of a citizen of a State. They are 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.

“The first question presented for adjudication is: Admitting the tax to be unequal, is the ordinance providing for its levy and enforcement in violation of the 1st section of the 14th amendment to the constitution of the United States, especially the last clause of the section? The section reads as follows: ‘All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The complainant, to be entitled to the protection of this constitutional provision, must be either a citizen of the United States or a person in the sense in which that term is used in this section.

It has been repeatedly held, by the supreme court of the United States, that corporations were not citizens of the several states in such sense as to bring them within the protection of that clause in the constitution of the United States (section 2, article IV), which declares that ‘the citizens of each state shall be entitled to all the privileges and immunities of citizens OF the several states;’ *Bank of Augusta v. Earle*, 13 Peters, 586; *Paul v. Virginia*, 8 Wallace, 177. (See [Note 2](#))

Are corporations citizens of the United States within the meaning of the constitutional provision now under consideration? It is claimed in argument that, before the adoption of the 14th amendment, to be a citizen of the United States, it was necessary to become a citizen of one of the states, but that since the 14th amendment this is reversed, and that citizenship in a state is the result and consequence of the condition of citizenship of the United States.

Admitting this view to be correct, we do not see its bearing upon the question in issue. Who are citizens of the United States, within the meaning of the 14th amendment, we think is clearly settled by the terms of the amendment itself. ‘All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.’ No words could make it clearer that citizens of the United States, within the meaning of this article, must be natural, and not artificial persons; for a corporation cannot be said to be born, nor can it be naturalized. I am clear, therefore, that a corporate body is not a citizen of the United States as that term is used in the 14th amendment.” *The Insurance Company v. The City of New Orleans*: 15th. Jud. Cir. 85, at 86 thru 88 (1870).

<http://books.google.com/books?id=jjW3AAAAIAAJ&pg=PA86#v=onepage&q&f=false>

Notes

1. In the *Slaughterhouse Cases*, the Supreme Court uses the term “citizen of the states” as an equivalent to the term “citizen of the several states.” This is also done in the following work. Entitled, The Constitution of the United States; Its History, Application and Construction, Volume II, by David K. Watson, LL.B., LL.D., of the Columbus, Ohio, Bar, 1910; it states:

(at page 1205)

“The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”

(at page 1210)

“The rights which the clause was intended to secure are those of the **CITIZENS OF THE STATES**. It does not undertake to confer any right, privilege or immunity on any one not a citizen of a State, as distinct from citizens of the United States.”

(at page 1211)

“This clause refers only to privileges and immunities of **CITIZENS OF THE STATES**.”

The privileges and immunities embraced by this section are those belonging to **CITIZENS OF THE STATES**.”

(at page 1213 thru 1214)

[*Corfield v. Coryell*, quoted on privileges and immunities.]

"These privileges and immunities are: first, the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; second, the right of a citizen of one State to pass through, or reside in, any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; third, to claim the benefit of the writ of habeas corpus; fourth, to institute and maintain actions of any kind in the courts of the State; fifth, to take, hold and dispose of property; sixth, exemption from higher taxes or impositions than are paid by the other citizens of the State; seventh, the elective franchise as regulated and established by the laws or constitution of the State in which it is to be exercised. They are fundamental and arise from the fact of citizenship and nothing else, and belong to the citizen as of right. The list does not, however, include all privileges and immunities which citizens of the States were entitled to at that time, for the opinion says, 'There were many others which might be mentioned,' and the number

has since been greatly enlarged, for it must appear self-evident that a great and powerful people, living in the broadest current of national life and activity, in the course of almost a century would of necessity create new privileges and immunities, so that the number would increase with the development of national resources, growth and strength. These new privileges and immunities of **CITIZENS OF THE STATES** are no less fundamental than those mentioned in *Corfield v. Coryell*.

(at page 1218)

"In the *Slaughter House Cases*, Mr. Justice Miller approved the definition of privileges and immunities as given by Mr. Justice Washington in *Corfield v. Coryell*.

..

'The constitutional provision did not create those rights, which it called privileges and immunities of **CITIZENS OF THE STATES**. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised.'

The clause established a general citizenship among the **CITIZENS OF THE SEVERAL STATES**.--In *Cole v. Cunningham*, the court said:

'The intention of section 2 of article 4 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.'

In *Blake v. McClung*, Mr. Justice Harlan after having reviewed the above cases, said:

'... So, a State may, by a rule uniform in its operation as to **CITIZENS OF THE SEVERAL STATES**, require residence within its limits for a given time before a citizen of another State who becomes a resident thereof shall exercise the right of suffrage or become eligible to office. It has never been supposed that regulations of that character materially interfered with the enjoyment by citizens of each State of the privileges and immunities secured by the Constitution to **CITIZENS OF THE SEVERAL STATES**. The Constitution forbids only such legislation affecting citizens of the respective States as will substantially or practically put a citizen of one State in a condition of alienage when he is within or when he removes to another State, or when asserting in another State the rights that commonly appertain to those who are a part of the political community known as the People of the United States, by and for whom the Government of the Union was ordained and established.'

<http://books.google.com/books?id=0j0vAAAAAYAAJ&pg=PA1205#v=onepage&q&f=false>

The term “citizens of the states” rather than “citizens of the several states” is used in the following Supreme Court of the United States cases:

“The White Slave Traffic Act of June 25, 1910, c. 395, 36 Stat. 825, is a legal exercise of the power of Congress under the commerce clause of the Constitution and does not abridge the privileges or immunities of **CITIZENS OF THE STATES** or interfere with the reserved powers of the States, especially those in regard to regulation of immoralities of persons within their several jurisdictions.” *Statement of the Case, Hoke and Economides v. United States*: 227 U.S. 308, at 309 (1913).

<http://books.google.com/books?id=4mYUAAAAYAAJ&pg=PA309#v=onepage&q&f=false>

“The grounds of attack upon the constitutionality of the statute are expressed by counsel as follows:

‘1. Because it is contrary to and contravenes Art. IV, §2, of the Constitution of the United States, which reads: “The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.”

‘2. Because it is contrary to and contravenes the following two amendments to the Constitution:

“Art. IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.”

“Art. X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people.”

‘3. Because that clause of the Constitution which reserves to Congress the power (Art. I, Sec. 8, Subdiv. 2) ‘To regulate Commerce with foreign Nations, and among the several States,’ etc., is not broad enough to include the power to regulate prostitution or any other immorality of **CITIZENS OF THE SEVERAL STATES** as a condition precedent (or subsequent) to their right to travel interstate or to aid or assist another to so travel.’ “*Opinion, Hoke and Economides v. United States*: 227 U.S. 308, at 319 (1913).

<http://books.google.com/books?id=4mYUAAAAYAAJ&pg=PA319#v=onepage&q&f=false>

(To this:

“The fourteenth amendment creates and defines citizenship of the United States. It had long been contended, and had been held by many

learned authorities, and had never been judicially decided to the contrary, that there was not such thing as a citizen of the United States, except as that condition arose from citizenship of some State. No mode existed, it was said, of obtaining a citizenship of the United States, except by first becoming a citizen of some State. This question is now at rest. The fourteenth amendment defines and declares who shall be citizens of the United States, to wit: 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof.' The latter qualification was intended to exclude the children of foreign representatives and the like. With this qualification, every person born in the United States or naturalized, is declared to be a citizen of the United States and of the State wherein he resides.

"After creating and defining citizenship of the United States, the fourteenth amendment provides, that 'no State shall make or enforce any law which shall abridge the privileges or immunities of *citizens of the United States* (emphasis not mine).' This clause is intended to be a protection, not to all our rights, but to our rights as citizens of the United States only; that is, to rights existing or belonging to that condition or capacity. The expression, citizen of a State, used in the previous paragraph, is carefully omitted here. In Article 4, section 2, subdivision 1, of the Constitution of the United States, it had been already provided, that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.' The rights of **CITIZENS OF THE STATES** (under Article IV, Section 2, Clause 1) and of citizens of the United States (under Section 1, Clause 2 of the Fourteenth Amendment) are each guarded by these different provisions. That these rights are separate and distinct, was held in the *Slaughter-House Cases*, (16 *Wallace*, 36,) recently decided by the Supreme Court. The rights of citizens of the State, as such, are not under consideration in the fourteenth amendment. They stand as they did before the adoption of the fourteenth amendment, and are fully guaranteed by other provisions. The rights of **CITIZENS OF THE STATES** have been the subject of judicial decision on more than one occasion. (*Corfield v. Coryell*, 4 *Wash. C. C. R.*, 371; *Ward v. Maryland*, 12 *Wallace*, 418, 430; *Paul v. Virginia*, 8 *Wallace*, 168.) These are the fundamental privileges and immunities belonging of right to the citizens of all free governments, such as the right of life and liberty, the right to acquire and possess property, to transact business, to pursue happiness in his own manner, subject to such restraint as the Government may adjudge to be necessary for the general good. In *Crandall v. Nevada*, 6 *Wallace*, 35, 44, is found a statement of some of the rights of a citizen of the United States, viz, to come to the seat of government to assert any claim he may have upon the Government, to

transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions, and to have free access to its seaports, through which all the operations of foreign commerce are conducted, to the sub-treasuries, the land offices, the revenue offices, and the Courts of justice in the several States. 'Another privilege of a citizen of the United States,' says Mr. Justice Miller, in the *Slaughter-House Cases*, 'is to demand the care and protection of the Federal Government over his life, liberty, and property, when on the high seas or within the jurisdiction of a foreign government.' 'The right to peaceably assemble and petition for redress of grievances, the privilege of the writ of *habeas corpus* (emphasis not mine),' he says 'are rights of the citizen guaranteed by the Federal Constitution.'" *United States v. Susan B. Anthony*: 11 2 nd Jud. Cir. 200, at 203 thru 204 (1873).

<http://books.google.com/books?id=Aiu3AAAAIAAJ&pg=PA203#v=onepage&q&f=false>

This case is cited in *Corfield v. Farrell* (134 P. Rep. 407, at 411 1913):

<http://books.google.com/books?id=mLyZAAAAIAAJ&pg=PA411#v=onepage&q&f=false>

And, in the following work; "A Treatise on Criminal Law," Eighth edition, by Francis Wharton, LL.D., Volume II, at page 566:

<http://books.google.com/books?id=NRU-AAAAIAAJ&pg=PA566#v=onepage&q&f=false>

Privileges and immunities of citizens of the States are held to be separate and distinct from privileges and immunities of citizens of the United States. Therefore, a citizen of the States is separate and distinct from a citizen of the United States.)

Next:

"The clauses of the Fourteenth Amendment invoked by appellants declare: 'No state shall make or enforce any law which shall abridge the privileges or immunities of citizen of the United States; nor shall any state deprive any person of life, liberty or property, without due process of laws.'

Appellants' contentions are that the enforcement of the order prescribing instruction in military science and tactics abridges some privilege or immunity covered by the first clause and deprives of liberty safeguarded by the second. The 'privileges and immunities' protected are only those that belong to citizens of the United States, as distinguished from **CITIZENS OF THE STATES** -- those that arise from the Constitution and laws of the United

States, as contrasted with those that spring from other sources.” Hamilton v. Regents of University of California: 293 U.S. 245, at 261 (1934).

<http://www.loislaw.com/advsrny/doclink.htm?alais=USCASE&cite=293+U.S.+245>

Following:

“By the Fourteenth Amendment, all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are made citizens of the United States and of the State wherein they reside; and the States are forbidden from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, or shall deprive any person of life, liberty or property without due process of law, or deny to any person within their jurisdiction the equal protection of the laws.

The proper construction of this amendment was first called to the attention of this court in the *Slaughter-house cases*, 16 Wall. 36, which involved, however, not a question of race, but one of exclusive privileges. The case did not call for any expression of opinion as to the exact rights it was intended to secure to the colored race, but it was said generally that its main purpose was to establish the citizenship of the negro, to give definitions of citizenship of the United States and of the States, and to protect from the hostile legislation of the States the privileges and immunities of citizens of the United States, as distinguished from those of **CITIZENS OF THE STATES.**” Plessy v. Ferguson: 163 U.S. 537, 543 (1896), overruled on other grounds, Brown v. Board of Education of Topeka: 347 U.S. 482 (1954).

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Also:

“The Fourteenth Amendment of the Constitution of the United States, ratified in 1868, creates or at least recognizes for the first time a citizenship of the United States, as distinct from that of **(CITIZENSHIP OF) THE STATES.**” Black’s Law Dictionary, 5th ed., at page 591.

And:

“(425). . . The appellants’ first contention was, as expressed by the commissioner in the opinion in the *Mahoney Case*, ‘that legacies to nephews and nieces are exempt from the collateral inheritance tax, whether they reside in this state or not.’ This

contention was a claim that section 2 of article 4 of the Constitution of the United States secured not merely to citizens of other states the immunities and privileges granted by a state to its own citizens, but secured the same to aliens, to residents of territories, and citizens of the United States who are not citizens of any state, none of which classes come under the protecting shield of the Constitution. . . .

(426) Section 2, art. 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 as it may deem fit upon its own citizens. 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, 21 L. Ed. 394, 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. 165, 43 L. Ed. 432; *Ward v. Maryland*, 12 Wall. 418, 20 L. Ed. 449. It will be noted not only that the constitutional provision is not restrictive, but that it is neither penal nor destructive. It nowhere intimates that an immunity conferred upon citizens of a state, because not in terms conferred upon citizens of sister states, shall therefore be void. Some force might be given to such an argument, were the constitutional provision couched in appropriate language for the purpose. If, for example, it had said, ‘No citizen of any state shall be granted any immunity not granted to every citizen of every state,’ or had it begun its declaration by saying that ‘it shall be unlawful to grant to citizens of any state any privilege or immunity not granted to citizens of every state,’ it might then have been argued that a legislative attempt so to do would be declared violative of the express mandate of the Constitution, and therefore void. But such is neither the scope, purpose, nor intent of the provision under consideration. It leaves to the state perfect freedom to grant such privileges to its citizens as it may see fit, but secures to the citizens of all the other states, by virtue of the constitutional enactment itself, the same rights, privileges, and immunities. So that, in every state law conferring immunities and privileges upon citizens, the constitutional clause under consideration, ex proprio vigore, becomes an express part of such statute. Thus it is expressed by Mr. Justice Harlan in *Blake v. McClung*, supra: “The object of the constitutional guaranty 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 like circumstances. . . . These principles have not been modified by any subsequent decision of this court.’ Here, then, in precise terms, and from the highest

court of our land, charged with the duty of construing our governmental law, it is declared that the purpose of the constitutional guaranty is to confer and communicate all privileges which may thus be granted by a state to its own citizens—a rule of construction obviously radically different from that which would strike down an immunity granted by a state to its own citizens because in terms such immunity had not been conferred upon citizens of all the states. It is unnecessary that a statute should so expressly provide. The Constitution itself becomes a part of the law.

And this, in giving operation to that constitutional provision, is what the courts have always done. They have never stricken down the immunity and the privilege which a state may have accorded to its own citizen. They have never annulled the exemption. They have always construed the law so as to relieve the citizens of other states, and place all upon equal footing. . . . In all these cases, and in every other case, if a privilege or immunity has been by the state conferred upon its citizens, and not in terms upon the citizens of other states, such privilege and immunity is not for that reason declared void, but the protecting arm of the Constitution is thrown around the citizens of every other state who thus are embraced within the privilege granted. The converse of the proposition is this—and it is the form in which the question has most frequently arisen—that, when a state has sought to impose a burden upon citizens of other states not imposed upon citizens of its own state, such effort is always held to be void. . . . The constitutional immunity goes only to citizens of sister states, and there is a clear distinction thus recognized between **CITIZENS OF THE STATES** and citizens of the United States who are not citizens of any state, as well as citizens of alien states. *Murray v. McCarty*, 2 Munf. 393. By virtue of the Constitution of the United States, the immunity which the Legislature, by the amendment of 1897, conferred upon citizens of this state, is extended to citizens of sister states, but the immunity goes no further.” *In Re Johnson’s Estate*: 93 P. Rep. 424, at 425, 426 (1903).

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(In accord with the following in this article:

A citizen of the United States is entitled to privileges and immunities of citizens in the several States. However, this is a privilege under Section 1, Clause 2 of the Fourteenth Amendment, and not Article IV, Section 2, Clause 1 of the Constitution:

“As applied to a citizen of another State, or to a citizen of the United States residing in another State, a state law forbidding sale of convict made goods does not violate the privileges and immunities clauses of Art. IV, Sec. 2 and the Fourteenth Amendment of the Federal

Constitution if it applies also and equally to the citizens of the State that enacted it.” [Syllabus] Whitfield v. State of Ohio: 297 U.S. 431 (1936).

“The court below proceeded upon the assumption that petitioner was a citizen of the United States; and his status in that regard is not questioned. The effect of the privileges and immunities clause of the Fourteenth Amendment, as applied to the facts of the present case, is to deny the power of Ohio to impose restraints upon citizens of the United States resident in Alabama in respect of the disposition of goods within Ohio, if like restraints are not imposed upon citizens resident in Ohio.

The effect of the similar clause found in the Fourth Article of the Constitution (section 2), as applied to these facts, would be the same, since that clause is directed against discrimination by a state in favor of its own citizens and against the citizens of other states. *Slaughterhouse Cases* (Live-Stock Dealers' & Butchers' Ass'n v. Crescent City Live-Stock Landing & Slaughter-House Co.), Fed.Cas. No. 8,408, 1 Woods 21, 28; *Bradwell v. State of Illinois*, 16 Wall. 130, 138.” [Opinion] Whitfield v. State of Ohio: 297 U.S. 431, 437 (1936).

Article IV, Section 2, Clause 1 therefore applies to privileges and immunities of citizens of the (several) states; Section 1, Clause 2 of the Fourteenth Amendment refers to privileges and immunities of citizens of the United States.)

2. “But in no case which has come under our observation, either in the State or Federal courts, has a corporation been considered a citizen within the meaning of that provision of the Constitution which declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens OF the several States.” Paul v. State of Virginia: 75 U.S. 168, 178 (1868).

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