

Section 1, Clause 2 of the Fourteenth Amendment  
modified Article IV, Section 2, Clause 1  
of the Constitution of the United States of America  
(Part 1)

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The Fourteenth Amendment was adopted on July 27, 1868. The Amendment has five sections. The first section is pertinent to this article. It states:

“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 privileges 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.”

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Section 1, Clause 2 of the Fourteenth Amendment modified Article IV, Section 2, Clause 1 of the Constitution of the United States of America. Before the adoption of the Fourteenth Amendment, under Article IV, Section 2, Clause 1, a citizen of a State was also a citizen of the United States. [\[Footnote 1\]](#), [\[Footnote 2\]](#)

However, in the *Slaughterhouse Cases*, the Supreme Court held that citizenship of the United States was separate and distinct from citizenship of a State. That a citizen of the United States was separate and distinct from a citizen of a State. [\[Footnote 3\]](#)

A citizen of the United States is now at Section 1 of the Fourteenth Amendment; a citizen of a State is still at Article IV, Section 2, Clause 1 of the Constitution. [\[Footnote 8\]](#)

Therefore, since the adoption of the Fourteenth Amendment, there is now a citizen of the United States and also a citizen of a State. [\[Footnote 9\]](#)

A citizen of the United States can become also a citizen of a State, by residing in a particular State, under Section 1, Clause 1 of the Fourteenth Amendment. This provision states:

“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.”

Thus, in any State of the Union, there are two State citizens, a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, and also a citizen of a State (and a citizen of the United States), under Section 1, Clause 1 of the Fourteenth Amendment. **[Footnote 10]** The only difference between them is that a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, is one born in a State of the Union; that is a native born citizen **[Footnote 11]** whereas a citizen of a State, under Section 1, Clause 1 of the Fourteenth Amendment, is also a citizen of the United States residing in a particular State **[Footnote 12]**.

A citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, before the adoption of the Fourteenth Amendment, was entitled to privileges and immunities of a citizen of the United States. However, with the adoption of the Fourteenth Amendment, privileges and immunities of a citizen of the United States were transferred from Article IV, Section 2, Clause 1 of the Constitution to Section 1, Clause 2 of the Fourteenth Amendment. In the *Slaughterhouse Cases*, it is stated:

“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 respective are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause (Section 1, Clause 2 of the Fourteenth Amendment) 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 amendment.” *Slaughterhouse Cases*: 83 U.S. (16 Wall.) 74 (1873). **[Footnote 13]**

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Article IV, Section 2, Clause 1 of the Constitution no longer applies to a citizen of the United States. Section 1 of the Fourteenth Amendment does. **[Footnote 14]**

Thus, Article IV, Section 2, Clause 1 was modified with the adoption of the Fourteenth Amendment. What was modified in Article IV, Section 2, Clause 1 is shown in the *Slaughterhouse Cases*, at page 75:

“In the Constitution of the United States, which superseded the Articles of

Confederation, the corresponding provision is found in section two of the fourth article, in the following words: "The citizens of each State shall be entitled to all the privileges and immunities of citizens **OF** the several States." " Slaughterhouse Cases: 83 U.S. (16 Wall.) 75 (1873).

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What was modified was the word "IN" located at "citizens in the several States." The word "IN" was changed to the word "OF." So "citizens **IN** the several States" is now "citizens **OF** the several States."

In addition, the *Slaughterhouse* Court changed the wording in the opinion of Mr. Justice Washington in *Corfield v. Coryell*. At pages 75 thru 76, it is written:

Fortunately we are not without judicial construction of this clause of the Constitution. The first and the leading case on 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?' "Slaughterhouse Cases: 83 U.S. (16 Wall.) 75 thru 76 (1873).

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Again the word "IN" located at "citizens **IN** the several States" was changed to the word "OF" so now it reads "citizens **OF** the several States. Compare:

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The Constitution of the United States of America has been modified before. Article III, Section 2, Clause 6 of the Constitution (between a State and Citizens of another State) was modified by the Eleventh Amendment.

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Now Article IV, Section 2, Clause 1 of the Constitution applies to privileges and immunities of a citizen of the several States [**See Footnote 13**]; that is, a citizen of all the several States, generally. This is shown in the *Slaughterhouse Cases*:

"The first occurrence of the words 'privileges and immunities' in our constitutional history, is to be found in the fourth of the articles of the old

Confederation.

It declares 'that the better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively.'

In the Constitution of the United States, which superseded the Articles of Confederation, the corresponding provision is found in section two of the fourth article, in the following words: 'The citizens of each State shall be entitled to all the privileges and immunities of citizens **OF** the several States.'

There can be but little question that the purpose of both these provisions is the same, and that the privileges and immunities intended are the same in each. In the article of the Confederation we have some of these specifically mentioned, and enough perhaps to give some general idea of the class of civil rights meant by the phrase.

Fortunately we are not without judicial construction of this clause of the Constitution. The first and the leading case on 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? We feel no hesitation in confining these expressions to those privileges and immunities which are fundamental; which belong of right to the citizens of all free governments, and which have at all times been enjoyed by citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign. . . .'

This definition of the *privileges and immunities of citizens of the States* [Footnote 15] is adopted in the main by this court in the recent case of *Ward v. The State of Maryland*, while it declines to undertake an authoritative definition beyond what was necessary to that decision. [Note A] The description, when taken to include others not named, but which are of the same general character, embraces nearly every civil right for the establishment and protection of which organized government is instituted. They are, in the language of Judge Washington, those rights which are FUNDAMENTAL. Throughout his opinion, they are spoken of as rights

belonging to the individual as a *citizen of a State*. [Footnote 16] They are so spoken of in the constitutional provision which he was construing. And they have always been held to be the class of rights which the State governments were created to establish and secure.

In the case of *Paul v. Virginia*, the court, in expounding this clause of the Constitution, says that ‘the privileges and immunities secured to citizens of each State IN the several States, by the provision in question [Note B], are those privileges and immunities which are COMMON to the citizens in the latter States under their constitution and laws by virtue of their citizens.’

The constitutional provision there alluded to 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* [Footnote 17] in which they were claimed or exercised. [Note C]” Slaughterhouse Cases: 83 U.S. (16 Wall.) 36, at 75 thru 77 (1873).

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#### Footnotes:

##### 1.

“The Constitution of the United States declares that the citizens of each State are entitled to all privileges and immunities of citizens in the several States, and we hold it to be a primary and sacred duty of the National Government to protect and maintain the exercise of all these civil, political and public rights by every citizen of the United States.” “Party Platforms (1878), State of Main, Republican, Adopted July 30”, The Tribune Almanac and Political Register for 1879, page 22.

<http://books.google.com/books?id=r5YYAAAAIAAI&pg=RA3-PA22#v=onepage&q&f=false>

“The section in the Constitution of the United States to which I have alluded, declares that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. The main question, according to my conception of it, involves but this single inquiry—Are free negroes and mulattoes, or any of them, citizens of the United States?” Debates of Congress: Missouri State Constitution—Citizenship of Free Colored Persons, Monday, December 11, 1820, Mr. Hemphill, Abridgment of the Debates of Congress from 1789 to 1856, (New York: D. Appleton & Company, 346 & 348 Broadway, 1858), Volume VII, page 37.

<http://books.google.com/books?id=ArATAAAAYAAJ&pg=PA37#v=onepage&q&f=false>

“The Constitution of the United States provides that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. This can

only apply to citizens who are, in their own States, entitled to all the privileges and immunities of citizens. Can it be shown that free negroes are such citizens in any one of the States as are entitled to all the privileges and immunities of citizens? A citizen is he who is entitled to the freedom and privileges of the body politic, and has a share in its government. In Rome every citizen was enrolled in one of the thirty-five tribes, and, consequently, had the right of suffrage. When we apply the term 'citizens' to the inhabitants of States, it means those who are members of the political community.

The civil law determined the condition of the son by that of the father. A man whose father was not a citizen was allowed to be a perpetual inhabitant, but not a citizen, unless citizenship was conferred on him. I consider him as a citizen of the United States, who is entitled to every personal right of a civil and political nature common to the great body of the political community. The distinguishing characteristic of a citizen of the United States is the possession of those capacities which a foreigner obtains by naturalization. Those are: 1st, a capacity to take a freehold; 2d, to vote at elections; 3d, to be elected, having the requisite qualifications of age, residence, and property. He who possesses these capacities is a citizen of the United States, within the meaning of the clause of the constitution under consideration; and he who does not possess these capacities is not." Debates of Congress: Missouri State Constitution—Citizenship of Free Colored Persons, Saturday, December 9, 1820, Mr. A. Smith, [Abridgment of the Debates of Congress from 1789 to 1856](#), (New York: D. Appleton & Company, 346 & 348 Broadway, 1858), Volume VII, page 29 thru 30.

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"It is said that there may be a citizen of the United States, who is not a citizen of any State, and the instances are put of an inhabitant of the District of Columbia or of a Territory.—The Constitution provides that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.' Does this contemplate a citizenship of the United States as distinct from being the citizen of a State? And there was a similar provision in the articles of confederation of 1778, and the term 'citizen of the United States' was used as commonly and as appropriately before the adoption of the constitution as since." [The Book of Allegiance or A Report of the Arguments of Counsel and Opinions of the Court of Appeals of South Carolina on the Oath of Allegiance, Determined on the 24th of May, 1834; Opinion of Judge Harper, 248, at 266](#),

<http://books.google.com/books?id=VbFBAAAAYAAJ&pg=PA266#v=onepage&q&f=false>

"Foreigners who, during the existence of the Articles of Confederation, became inhabitants, or, taking the expression in its most limited sense, were admitted citizens of any State, became thereby entitled to the privileges of citizens in the several States, and were, to all intents and purposes, citizens of the United States at

the time of the adoption of the Constitution of the United States. The contrary opinion would lead to the extraordinary conclusion that the several thousand foreigners naturalized under the laws of the States prior to the adoption of the Constitution of the United States, not being then deemed citizens of the United States, would be forever ineligible, whilst those naturalized under the acts of Congress subsequent to the adoption of the Constitution, would, as citizens of the United States, become eligible to either house of Congress." (Mr. Gallatin to Mr. Lowrie, Feb. 19, 1824. *2 Gallatin's Writings*, 287.) *A Digest of The International Law of the United States taken from Documents issued by Presidents and Secretaries of State and from Decisions of Federal Courts and Opinions of Attorneys-General*, Francis Wharton, LL. D., (Washington: Government Printing Office, 1887), Second edition, Volume II, page 426, section 188.

<http://books.google.com/books?id=yIQRAAAAYAAJ&pg=PA426#v=onepage&q&f=false>

"It seems, however, to have been lately suggested that a person admitted citizen of a State prior to the adoption of the Constitution of the United States was not a citizen of the United States at the time of the adoption of the Constitution. The grounds for that opinion are not distinctly understood, but it seems altogether untenable.

The several States assumed the name of the United States in the very act by which they declared their independence; but being bound at that time by no compact, and having no common government, it was not till after the ratification of the Articles of Confederation, in the year 1781, that there could be any citizens of the United States.

The power of naturalization was not by those Articles vested in the general government, and remained, therefore, as every other power not thus delegated, with the States respectively. It was equally obvious that, unless express provision was made for the purpose, the union of the several States, whether by those Articles or by the subsequent adoption of the present Constitution, did not of itself create citizens of the United States or communicate to citizens of a State the right of citizenship in the several States. The power of granting or refusing that right to a citizen of another State would have remained as entire with the several States as that of naturalizing foreigners had no provision been introduced on the subject, first in the Articles of Confederation and afterwards in the Constitution. It was accordingly enacted, with a variation in the expression, by the Articles of Confederation, that the inhabitants, and by the Constitution, that the citizens, of each State should be entitled to all privileges and immunities of citizens in the several States. There is no other provision affecting the subject in either of those instruments, except that in the present Constitution which gives to Congress the power of establishing an uniform rule of naturalization. ***With the exception of foreigners naturalized in conformity with the Acts of Congress passed since the adoption of the Constitution, all native- or foreign-born citizens of the United States are such by virtue of either the one or the other of the clauses above***



**mentioned of the Articles of Confederation and of the Constitution.** Were it not for those provisions, the citizens of the several States would not be entitled to the rights of citizenship in another State unless admitted to those rights by such State; they would not be citizens of the United States. **The citizens of the United States contemplated by the Constitution are, with the exception above mentioned, exclusively the citizens** (or perhaps, under the Constitution, the inhabitants) **of each State, declared either by the Act of Confederation or by the Constitution to be entitled to the privileges of citizens in the several States.** . . .

Under the Confederation the several States preserved, and they did exercise, the right of admitting citizens. By the 4th Article the inhabitants of each State became entitled to the privileges of citizens in the several States, or, what has been shown to be tantamount, became citizens of the United States. . . .

The foreigners, therefore, who, during the existence of the Articles of Confederation, became inhabitants, or, taking the expression in its most limited sense, were admitted citizens of any State, became thereby entitled to the privileges of citizens in the several States, and were, to all intents and purposes, citizens of the United States at the time of the adoption of the Constitution of the United States.” Mr. Gallatin to Mr. Lowrie, Feb. 19, 1824, The Writings of Albert Gallatin, Volume II, pages 285 thru 287.

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**2.** A citizen of the United States was either a native (natural) born citizen or a naturalized citizen. A native (natural) born citizen of the United States was not the same as a naturalized citizen of the United States. A native (natural) born citizen of the United States was a native born citizen; a naturalized citizen of the United States a foreign born citizen (or subject). A native (natural) born citizen of the United States was eligible to be President of the United States of America; a naturalized citizen of the United States was not eligible.

And, a native (natural) born citizen of the United States was located at Article IV, Section 2, Clause 1 of the Constitution, a naturalized citizen of the United States at Article I, Section 8, Clause 3.

**3.** From the *Slaughterhouse Cases* there is the following:

(Page 74)

“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 respective are, we will presently consider; but we wish to state here that it is only the former which



are placed by this clause (Section 1, Clause 2 of the Fourteenth Amendment) 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 amendment.” [Footnote 4]

“The language is ‘No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.’ It is a little remarkable, if this clause was intended as a protection to the citizen of a State against the legislative power of his own State, that the word citizen of the State should be left out when it is so carefully used and used in contradistinction to citizens of the United States, in the very sentence which precedes it. It is to clear for argument that the change in phraseology was adopted understandingly and with a purpose.” [Footnote 5]

(Page 77)

“The constitutional provision there alluded to did not create those rights, which it called privileges and immunities of citizens of the States. It threw around them in that clause (Article IV, Section 2, Clause 1) no security for the citizen of the State in which they were claimed or exercised. 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 those 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.” [Footnote 6]

Slaughterhouse Cases: 83 U.S. (16 Wall.) 36, at 74, 77 (1873). [Footnote 7]

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4. “In the *Slaughter-house cases*, 16 Wall. 36, the subject of the privileges or immunities of citizens of the United States, as distinguished from those of a particular State, was treated by Mr. Justice Miller in delivering the opinion of the court. He stated . . . that ***it was only privileges and immunities of the citizen of the United States that were placed by the [Fourteenth] amendment under the protection of the Federal Constitution, and that the privileges and immunities of a citizen of a State, whatever they might be, were not intended to have any additional protection by the paragraph in question, but they must rest for their security and protection where they have heretofore rested.***” Maxwell v. Dow: 176 U.S. 581, at 587 (1900).

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5. "... It is, then, to the Fourteenth Amendment that the advocates of the congressional act must resort to find authority for its enactment, and to the first section of that amendment, which is 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 privileges 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.'

In the first clause of this section, declaring who are citizens of the United States, there is nothing which touches the subject under consideration. The second clause, declaring that 'no State shall make or enforce any law which will abridge the privileges or immunities of citizens of the United States,' **is limited, according to the decision of this court in Slaughter-House Cases, to such privileges and immunities as belong to citizens of the United States, as distinguished from those of citizens of the State.**" Neal v. State of Delaware: 103 U.S. 370, at 406 (1880).

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6. "Referring to the same provision of the Constitution (that is; the second section of article 4), this court said, in *Slaughter-House Case*, ubi supra, that it '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. **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 those 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.' " United States v. Harris: 106 U.S. 629, at 643 thru 644 (1882).

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7. "... There is no inherent right in a citizen to thus sell intoxicating liquors by retail. It is not a privilege of a **citizen of the State or of a citizen of the United States.**" Crowley v. Christensen: 137 U.S. 86, at 91 (1890).

<http://books.google.com/books?id=htIGAAAAYAAJ&pg=PA91#v=onepage&q&f=false>

8. “Another objection to the act is that it is in violation of section 2, art. 4, of the constitution of the United States, and of the fourteenth amendment, in that this act discriminates both as to persons and products. Section 2, art. 4, declares that the citizens of each state shall be entitled to all the privileges and immunities of the citizens of the several states; and the fourteenth amendment declares that no state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States. But we have seen that the supreme court, in *Crowley v. Christensen*, 137 U.S. 91, 11 Sup. Ct. Rep. 15, has declared that there is no inherent right in a citizen to sell intoxicating liquors by retail. It is not a privilege of **a citizen of a state or of a citizen of the United States.**” *Cantini v. Tillman*: 54 Fed. Rep. 969, at 973 (1893).

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“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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9. “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 acceptance, **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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“And all that the Supreme Court decided in the *Slaughter-house Cases*, was that the United States by force of the Fourteenth Amendment was not clothed with authority to enforce the rights common to all men but those only peculiar to citizenship.

The right to vote is not the common right of all persons resident in Virginia. It is not the right of all citizens of Virginia, *per se*, because ***a person might be a citizen of Virginia who is not a citizen of the United States***, and the Constitution of the State confers the right to vote upon citizens of the United States solely.” (*Opinion of Judge Bond*) United States v. Petersburg Judges of Election: 1 Hughes 493, at 500 (1877).

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***“A person who is a citizen of the United State is necessarily a citizen of the particular state in which he resides. But a person may be a citizen of a particular state and not a citizen of the United States.*** To hold otherwise would be to deny to the state the highest exercise of its sovereignty – the right to declare who are its citizens. . . . Electoral right is a political right; and, although the right to vote is primarily the right of every citizen, yet it may be denied to a certain class of individuals. Therefore a person may be a citizen of the state, and may not be invested with electoral power.” State of Louisiana v. Fowler: 6 S. 602; 41 La. Ann. 380 (1889).

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***“Under the Fourteenth Amendment all persons born or naturalized in the United States are citizens of the United States and of the state in which they reside, but we find nothing . . . which requires that a citizen of a state must be a citizen of the United States.***

Absent any unconstitutional discrimination, a state has the right to extent qualification for state office to its citizens, even though they are not citizens of the United States.” Crosse v. Board of Supervisory of Election of Baltimore City: 243 Md. 555, 562; 221 A.2d 431, 436 (1966).

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10. “ . . . In the Constitution and laws of the United States, the word ‘citizen’ is generally, if not always, used in a political sense to designate who has the rights and privileges of a ***citizen of a State or of the United States***.” Baldwin v. Franks: 120 U.S. 678, at 690 (1887).

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“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*:

<http://books.google.com/books?id=1SoZAAAAYAAJ&pg=PA427#v=onepage&q&f=false>

“ . . . 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.].

<http://books.google.com/books?id=pB0TAAAYAAJ&pg=PA12#v=onepage&q&f=false>

**11.** "Joseph A. Iasigi, ***a native born citizen of Massachusetts***, was arrested, February 14, 1897, on a warrant issued by one of the city magistrates of the city of New York, as a fugitive from the justice of the State of Massachusetts." Iasigi v. Van De Carr: 166 U.S. 391, at 392 (1897).

<http://books.google.com/books?id=xuUGAAAYAAJ&pg=PA392#v=onepage&q&f=false>

"Article IV., § 2, provides that the 'citizens of each state shall be entitled to all privileges and immunities of citizens of the several states.'

The attention of the court has been called to the decision in *Groh v. Commonwealth*, 6 Pac. C. C. R. 130, in which an act entirely similar to the one under

discussion was, by reference to this provision of the constitution, held void as against citizens of other states. With the utmost respect for the opinion of the learned judge who rendered that decision, this court is constrained to differ with this view. The clause of the constitution in question requires only that a citizen of another state be accorded the same rights under our laws as the citizens of Pennsylvania: *Lemon v. State*, 20 N. Y. 562, 608. It has nothing to do with distinctions founded on residence: *Ibid*.

***A native born citizen of Pennsylvania***, residing out of the state or even out of the counties of Berks and Franklin, is given no rights by this act which are denied to a citizen of another state, and the latter, if residing in these counties, has all the rights under it which a citizen of Pennsylvania has. Neither ***a native born citizen of Pennsylvania***, residing out of the state, nor a citizen of another state not residing in Pennsylvania, can claim any rights, which under our laws belong only to residents of the state: *Lemon v. State*, *supra*. Thus, a statute of a state requiring non-resident suitors to give security for costs, does not offend against the constitutional provision referred to, because relating only to residence and not to citizenship: *Cummins v. Wingo* (S. C.), 10 S. E. Rep. 107.

Nor does article IV., § 2, protect citizens of this state from discriminating legislation within the state: *Slaughter-House Cases*, 16 Wall. 36, 75-77. *Rothermel v. Meyerle*: 136 Penn. 250, at 253 (1890); citing the entire opinion of the court below, *Rothermel v. Meyerle*, C. P. No. 74, November Term 1889, in its opinion.

<http://books.google.com/books?id=0MQaAAAAYAAJ&pg=PA254#v=onepage&q&f=false>

**12.** “The language of the Fourteenth Amendment declaring two kinds of citizenship is discriminating. It is: ‘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.’ While it thus establishes national citizenship from the mere circumstance of birth within the territory and jurisdiction of the United States, birth within a state does not establish citizenship thereof. State citizenship is ephemeral. It results only from residence and is gained or lost therewith.” *Edwards v. People of the State of California*: 314 U.S. 160, 183 (concurring opinion of Jackson) [1941].

[http://scholar.google.com/scholar\\_case?case=6778891532287614638](http://scholar.google.com/scholar_case?case=6778891532287614638)

**13.** Privileges and immunities of a citizen of a State are to be found in the constitution and laws of a particular 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).

<http://books.google.com/books?id=mmkUAAAAYAAJ&pg=PA687#v=onepage&q=&f=false>

14. “. . . The only question to be considered, so far as the law is concerned, is whether its necessary result is the taxation of such property. The proposition is maintained, and is undoubtedly correct, that, before property can be taxed, it must have become identified and incorporated with the general mass of property in the state. Live stock in this state is, in the greater part, maintained by feeding or grazing upon the natural grasses of the soil. In the case of some kinds of live stock, they are largely allowed to roam at will, but over territory more or less confined in extent. With sheep the custom is to keep them in convenient flocks or herds, intrusted to herders, and to direct them from place to place, generally as to a particular herd, in some certain locality, but covering in most cases a rather large and indeterminate territory. They are thus maintained until in proper condition for disposition, shipment, or other purposes of the owner. The only way in which such property becomes identified and incorporated with the other property of the state is by being turned at large or herded, to be maintained by grazing. Whether the purpose is that they shall remain in the state permanently or not, is not a determining factor. Such a purpose does not exist in the case of the greater proportion of all the live stock in the state. The object of a cattle grower is to ship out the state his cattle, as soon as they arrive at the proper age, size, or condition. To some extent that is also the purpose which the sheep owner has in view. When live stock are brought into this state to graze they are here to be maintained. While here for that purpose, they are as fully identified and incorporated with the other property of the state as it is possible for most of our live stock to become. The length of time that such property remains cuts no figure, if the purpose aforesaid is present. No question of interstate commerce is involved in such case which militates against the exercise by the state of its power of taxation. ***Neither, in that event, is a citizen of another state deprived of any of the immunities or privileges of a citizen of this state, nor is the state attempting to make or enforce a law which abridges the rights of a citizen of the United States.*** . . . A statute of Washington taxing live stock brought into that state to graze was upheld in all respects, but the question was apparently not presented, nor was it discussed in the opinion of the court whether any provision of the federal constitution was infringed upon. *Wright v. Stinson* (Wash.) 47 Pac. 761.” Kelley v. Rhoads: 51 Pac Rep 573, at 596 (1898).

<http://books.google.com/books?id=6wsLAAAAYAAJ&pg=PA596#v=onepage&q=&f=false>

15. The phrase “privileges and immunities of citizens of the States” is the same as the phrase “privileges and immunities of citizens of the several States:

“In speaking of the meaning of the phrase ‘**privileges and immunities of citizens of the several States**,’ under section second, article fourth, of the Constitution, it was said by the present Chief Justice, in *Cole v. Cunningham*, 133 U.S. 107, that the intention 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.’ “ *Maxwell v. Dow*: 176 U.S. 581, at 592 (1900).

<http://books.google.com/books?id=8toGAAAAYAAJ&pg=PA592#v=onepage&q&f=false>

16. Therefore, under Article IV, Section 2, Clause 1 of the Constitution, a citizen of a State is entitled to privileges and immunities of a citizen 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 **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>

17. A citizen of a State is also a citizen of the several States:

“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 citizen of the same State would be entitled to under like circumstances, and this includes the right to institute actions.” *Cole v. Cunningham*: 133 U.S. 107, 113-114 (1890).

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

### **Slaughterhouse Cases**

**Note A:** In the case of *Ward v. State of Maryland* (79 U.S. 418), the Supreme court concerned itself with privileges and immunities which were FUNDAMENTAL under

Article IV, Section 2, Clause 1 of the Constitution of the United States of America. At page 430:

“Attempt will not be made to define the words ‘privileges and immunities,’ or to specify the rights which they are intended to secure and protect, beyond what may be necessary to the decision of the case before the court. Beyond doubt those words are words of very comprehensive meaning, but it will be sufficient to say that the clause plainly and unmistakably secures and protects the right of a citizen of one State to pass into any other State of the Union for the purpose of engaging in lawful commerce, trade, or business without molestation; to acquire personal property; to take and hold real estate; to maintain actions in the courts of the State; and to be exempt from any higher taxes or excises than are imposed by the State upon its own citizens.

... [T]he Constitution provides that the citizens of each State shall be entitled to all privileges and immunities of citizens **IN** the several States.”

<http://books.google.com/books?id=6X0-AAAAAYAAJ&pg=PA430#v=onepage&q&f=false>

Note that the *Ward* court uses the word “IN” in its reference to Article IV, Section 2, Clause 1 of the Constitution while the *Slaughterhouse* court uses the word “OF”. Article IV, Section 2, Clause 1 has, therefore, been modified, in this case, by the Fourteenth Amendment. Thus, when dealing with a privilege or immunity that is FUNDAMENTAL, future references to Article IV, Section 2, Clause 1 are to be made as “privileges and immunities of citizens OF the several States.”

**Note B:** In the case of *Paul v. State of Virginia (75 U.S. 168 1868)*, the Supreme court dealt with privileges and immunities which are COMMON under Article IV, Section 2, Clause 1 of the Constitution of the United States of America. At page 180:

“[T]he privileges and immunities secured to citizens of each State in the several States, by the provision in question, are those privileges and immunities which are COMMON to the citizens in the latter States under their constitution and laws by virtue of their being citizens.”

<http://books.google.com/books?id=-bwGAAAAYAAJ&pg=PA180#v=onepage&q&f=false>

Article IV, Section 2, Clause 1 of the Constitution “declares that ‘the citizens of each State shall be entitled to all the privileges and immunities of citizens **IN** the several States.’ “ Page 177.

Therefore, when dealing with a privilege or immunities that is COMMON, Article IV, Section 2, Clause 1 is to be cited as “privileges and immunities of citizens IN the several States.”

**Note C:** A citizen of a State is entitled to privileges and immunities of a citizen of the several States. A citizen of a State is therefore a citizen of the several States. A citizen of a State is entitled to privileges and immunities of a citizen in the several States. A citizen of a State is also (still) a citizen of a State.

Privileges and immunities of a citizen of a State are to be found at the constitution and laws of a particular State. Privileges and immunities of a citizen of the several States are located at Article IV, Section 2, Clause 1 of the Constitution. Therefore, Article IV, Section 2, Clause 1 is a Citizen Clause. It is to be quoted as “The citizens of each State shall be entitled to all the privileges and immunities of citizens **OF** the several States.”