

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 2)

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A citizen of a State; under Article IV, Section 2, Clause 1 of the Constitution **[Note D]**, **[Note E]**, is now also a citizen of the several States. **[Footnote 18]** And; as such, has COMMON **[Footnote 19]** and FUNDAMENTAL **[Footnote 20]** privileges and immunities. Also, such citizen, is recognized under international law as a citizen of the several States. **[Footnote 21]**

A citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, is a citizen of a particular State as well as a citizen of all the several States; that is a citizen of the several States, generally. **[Footnote 22]** A citizen of the United States, however, is a citizen of the territories and possessions of the United States, including the District of Columbia and the federal enclaves in the several States of the Union. **[Footnote 12, Article, Part 1], [Footnote 23]**

Therefore, in the country of the United States, since the adoption of the Fourteenth Amendment and the *Slaughterhouse Cases*, there are two citizens, a citizen of the several States, and a citizen of the United States. This is the result of Section 1, Clause 1 of the Fourteenth Amendment modifying Article IV, Section 2, Clause 1 of the Constitution of the United States of America. **[Footnote 24]**

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**Footnotes:**

**18.** “Action to have a certain marriage between plaintiff and defendant declared valid and binding upon the parties. A second amended complaint alleged: That on August 2, 1897, defendant was a minor of the age of 15 years and 10 months, and that her father, one A. C. Thomson, was her natural and only guardian. Plaintiff was

of the age of 21 years and 10 months, and ***both plaintiff and defendant were citizens and residents of Los Angeles county, Cal.*** On said day plaintiff and defendant, at Long Beach, on the coast of California, boarded a certain fishing and pleasure schooner, of 17 tons burden, called the 'J. Willey,' duly licensed under the laws of the United States, of which W. L. Pierson was captain, and was enrolled as master thereof, and had full charge of said vessel. Said vessel proceeded to a point on the high seas about nine miles from the nearest point from the boundary of the state and of the United States. The parties then and there agreed, in the presence of said Pierson, to become husband and wife, and the said Pierson performed the ceremony of marriage, and, among other things, they promised in his presence to take each other for husband and wife, and he pronounced them husband and wife. Neither party had the consent of the father or mother or guardian of defendant to said marriage. . . .

Appellant contends (1) that the marriage is valid because performed upon the high seas; and (2) that it would have been valid if performed within this state, because there is no law expressly declaring it to be void. Respondent presents the case upon two propositions, claiming (1) that no valid marriage can be contracted in this state, except in compliance with the prescribed forms of the laws of this state, and contract a valid marriage.

Sections 4082, 4290, 722, Rev. St. U.S., are cited by appellant as recognizing marriages at sea and before foreign consuls, and that section 722 declares the common law as to marriage to be in force on the high seas on board American vessels. We have carefully examined the statutes referred to, and do not find that they give the slightest support to appellant's claim. The law of the sea, as it may relate to the marriage of citizens of the United States domiciled in California, cannot be referred to the common law of England, any more than it can to the law of France or Spain, or any other foreign county. ***We can find no law of congress, and none has been pointed out by appellant, in which the general government has undertaken or assumed to legislate generally upon the subject of marriage on the sea. Nor, indeed, can we find in the grant of powers to the general government by the several states, as expressed in the national constitution, any provision by which congress is empowered to declare what shall constitute a valid marriage between citizens of the several states upon the sea,*** either within or without the conventional three-mile limit of the shore of any state; and clearly does no such power rest in congress to regulate marriages on land, except in the District of Columbia and the territories of the United States, or where is power of exclusive jurisdiction. We must look elsewhere than to the acts of congress for the law governing the case in hand." Norman v. Norman: 54 Pac. Rep. 143, 143 thru 144 (1898).

<http://books.google.com/books?id=-QwLAAAYAAJ&pg=PA143#v=onepage&q&f=false>

## 19. COMMON privileges and immunities:

“The alternative writ alleges that relators were citizens and residents of the state of New York, and were unincorporated, and that their association existed by voluntary agreement among themselves, without a charter from any state or foreign power. The motion to quash, being in the nature of a demurrer, admits the statements of the writ to be true; and, this being so, we cannot consider relators as existing in a corporate or quasi corporate capacity. The sole question presented, then, is whether the legislature can prescribe discriminating conditions upon citizens of other states, not imposed upon citizens here engaging in the same kind of business? In speaking of the clause in the federal constitution already quoted (article 4, § 2), it is said in *Paul v. Virginia*, 8 Wall. 168: ‘It was undoubtedly the object of the clause in question to place the citizens of each state upon the same footing with citizens of other states, so far as the advantages resulting from citizenship in those states are concerned. It relieves them from the disabilities of alienage in other states. It inhibits discriminating legislation against them by other states. It gives them the right of free ingress into other states, and egress from them. It insures to them in other states the same freedom possessed by the citizens of those states in the acquisition and enjoyment of property, and in the pursuit of happiness; and it secures to them in other states the equal protection of their laws.’ It is also stated in this opinion that privileges and immunities secured to citizens of each state in the several states by the constitution of the United States 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.” Hoadley v. Board of Insurance Commissioners of Florida: 20 S. Rep. 772, at 775 (1896).

<http://books.google.com/books?id=cos7AAAAIAAJ&pg=PA775#v=onepage&q&f=false>

## 20. FUNDAMENTAL privileges and immunities:

“It is provided by the constitution of the United States (sec. 2, art. IV) that ‘the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.’ The first attempt at a comprehensive definition of this clause of the federal constitution seems to be made in the case of *Corfield v. Coryell*, 4 Wash. C. C. 371, where Mr. Justice Washington, referring to this section of the constitution, says: ‘The inquiry 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 in their nature FUNDAMENTAL, which belong of right to the citizens of all free governments, and which have at all times been enjoyed by the citizens of the several states which compose this Union, from the time of their becoming free, independent, and sovereign. . . . They may, however, be all comprehended under the following general heads: Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess

property of every king, and to pursue and obtain happiness and safety; subject, nevertheless, to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one state to pass through or reside in any other state, for purpose of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; *to institute and maintain actions of every kind in the courts of the state*; to take, hold, and dispose of property, either real or personal; and an exemption from higher taxation and impositions than are paid by the citizens of the other state,--may be mentioned as some of the particular privileges and immunities of citizens which are clearly embraced by the general description of privileges deemed to be FUNDAMENTAL.'

The subject was again considered in *Ward v. Maryland*, 12 Wall. 418, where it is said by Mr. Justice Clifford, who wrote the opinion in that case, referring to the words 'privileges and immunities' in this section; 'Beyond doubt, these 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.' . . .

These decisions are all referred to with approval in the opinion of the supreme court of the United States in the *Slaughter-House Cases*, 16 Wall. 36. See, on this same subject, the following cases, which are in harmony with the cases just quoted: *Lemon v. People*, 20 N.Y. 608; *Campbell v. Morris*, 3 Har. & McH. 535. A case almost identical in its facts with the case before us is the case of *Cofrode v. Circuit Judge*, 79 Mich. 332, where this provision of the constitution of the United States is directly construed as guaranteeing the right to a citizen of another state to bring suits in the state of Michigan in any case where a citizen of Michigan was entitled to bring such suit. Indeed, we have been referred to no cases holding the contrary of this proposition, except, possibly, the case of *Morris v. M.P.R. Co.*, 78 Tex. 17, where it was held that a Texas court might refuse to take jurisdiction of an action between a Choctaw Indian and a resident of another state. We do not, however, regard this case as of value as authority on this question, because it was held to be a local action, and not transitory. If this was the case, of course the courts of Texas could not entertain it, whatever the citizenship of the parties. Therefore, what is said at the close of the opinion with regard to the power of dismissing the case on account of the residence of the parties is obiter. Moreover, the question of the rights of a citizen of another state under the constitution could hardly arise in a case where the plaintiff was a member of an Indian tribe, and consequently not a citizen of any state.

We are entirely satisfied that one of the 'privileges and immunities' referred to

in the constitutional provision is the right to bring and maintain an action in the courts of the state. Any citizen of this state may bring an action in the circuit court of this state upon a transitory cause of action arising in another state, and against a citizen of another state, provided he can obtain jurisdiction of the person of the defendant in this state. This is one of the rights guaranteed him under our constitution and laws. [\[Footnote 13, Article, Part 1\]](#) If the word ‘privileges and immunities’ in the constitutional clause in question refer to the right to maintain actions, then a resident of another state has the same right to bring an action in the courts of this state upon a cause of action arising in another state, and against a citizen of another state, that a citizen of this state has, because the constitution guarantees him the same right as a citizen of this state. We entirely approve the doctrine held by the supreme court of Michigan in *Cofrode v. Circuit Judge*, 79 Mich. 332, and therefore hold that the trial court could not dismiss this action merely because the parties were both citizens of Illinois, and the cause of action arose in Illinois.” *Eingartner v. The Illinois Steel Company*: 94 Wisc. 70, at 75 thru 78 (1896).

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

21. From the “United States Naval Institute Proceedings”, Volume 45, No. 7, July 1919, at page 1790 thru 1791 there is the following:

<http://books.google.com/books?id=kEELP3wiHvAC&pg=PA1790#v=onepage&q&f=false>

“Merchant Marine . . .

The nationality of those shipped as officers (excluding masters) and men (counting repeated shipments) before United States Shipping Commissioners, as returned to the Bureau of Navigation, Department of Commerce, was as follows for 1914 and 1919:

| <u>Nationality</u> | <u>1914</u> | <u>1919</u> |
|--------------------|-------------|-------------|
| Others             | 11,442      | 38,811      |

Those classed as “others” are mainly from the countries of South America, ***citizens of the several states*** which have been created by the war, and Swiss shipping as stewards.—*U.S. Bulletin*, 9/8.”

This report of the **Nationality of Crews** can be seen for the years 1907 through 1922, inclusive, at these links:

<http://books.google.com/books?id=8y0pAAAAAYAAJ&pg=PA38#v=onepage&q&f=false>

<http://books.google.com/books?id=oC4pAAAAAYAAJ&pg=PA14#v=onepage&q&f=false>

(on page 15)

As can be seen “Others” appears in all of them under Nationality.

**22.** In other words, a citizen of the Union:

“New States may be admitted by the Congress into this Union.” Article IV, Section 3, Clause 2 Constitution of the United States of America.

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

And:

“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union.” Article 1, Section 2, Clause 3 Constitution of the United States of America.

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

Modified by the Section 2, Clause 1 of the Fourteenth Amendment:

“Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.”

[http://www.archives.gov/exhibits/charters/constitution\\_amendments\\_11-27.html#14](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html#14)

Or a citizen of the United States of America (USA):

“Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven **and** of the Independence of the United States of America the Twelfth. Article VII, Attest—William Jackson, Secretary Constitution of the United States of America.

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

The several States are members of the Union as well as the United States of America:

“As a result of the separation from Great Britain by the colonies acting as a unit, the powers of external sovereignty passed from the Crown not to the colonies severally, but to the colonies in their collective and corporate capacity as the **United States of America**. Even before the Declaration, the colonies were a unit in foreign affairs, acting through a common agency — namely the Continental Congress, composed of delegates from the thirteen colonies. That agency exercised the powers of war and peace, raised an army, created a navy, and finally adopted the Declaration of Independence. Rulers come and go; governments end and forms of government change; but sovereignty survives. A political society cannot endure

without a supreme will somewhere. Sovereignty is never held in suspense. When, therefore, the external sovereignty of Great Britain in respect of the colonies ceased, it immediately passed to the **Union**. See *Penhallow v. Doane*, 3 Dall. 54, 80-81. That fact was given practical application almost at once. The Treaty of Peace, made on September 23, 1783, was concluded between his Britannic Majesty and the "**United States of America**." 8 Stat. — *European Treaties* — 80.

The **Union** existed before the Constitution, which was ordained and established among other things to form 'a more perfect **Union**.' Prior to that event, it is clear that the **Union**, declared by the Articles of Confederation to be 'perpetual,' was the sole possessor of external sovereignty and in the **Union** it remained without change save in so far as the Constitution in express terms qualified its exercise." *United States v. Curtiss-Wright Export Corporation, et. al.*: 299 U.S. 304, at 316 thru 317 (1936).

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"The power of Congress in respect to the admission of new States is found in the third section of the fourth Article of the Constitution. That provision is that, 'new States may be admitted by the Congress into this **Union**.' The only expressed restriction upon this power is that no new State shall be formed within the jurisdiction of any other State, nor by the junction of two or more States, or parts of States, without the consent of such States, as well as of the Congress.

But what is this power? It is not to admit political organizations which are less or greater, or different in dignity or power, from those political entities which constitute the **Union**. It is, as strongly put by counsel, a 'power to admit States.'

The definition of 'a State' is found in the powers possessed by the original States which adopted the Constitution, a definition emphasized by the terms employed in all subsequent acts of Congress admitting new States into the **Union**. The first two States admitted into the **Union** were the States of Vermont and Kentucky, one as of March 4, 1791, and the other as of June 1, 1792. No terms or conditions were exacted from either. Each act declares that the State is admitted 'as a new and entire member of the **United States of America**.' 1 Stat.189, 191. Emphatic and significant as is the phrase admitted as 'an entire member,' even stronger was the declaration upon the admission in 1796 of Tennessee, as the third new State, it being declared to be 'one of the **United States of America**,' 'on an equal footing with the original States in all respects whatsoever,' phraseology which has ever since been substantially followed in admission acts, concluding with the Oklahoma act, which declares that Oklahoma shall be admitted 'on an equal footing with the original States.' *Coyle v. Smith*: 221 U.S. 559, at 566 thru 567 (1911).

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Therefore, again, a citizen of the United States of America.

**23.** Such citizenship is based on political jurisdiction of the United States:

“This section [the opening sentence of the Fourteenth Amendment] contemplates two sources of citizenship, and two sources only: birth and naturalization. The persons declared to be citizens are ‘all persons born or naturalized in the United States, and subject to the jurisdiction thereof.’ The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their **political jurisdiction**, and owing them direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired.” Elk v. Wilkins: 112 U.S. 94, at 101 thru 102 (1884).

<http://books.google.com/books?id=rHEUAAAAYAAJ&pg=PA101#v=onepage&q&f=false>

“To be ‘completely subject’ to the **political jurisdiction** of the United States is to be in no respect or degree subject to the **political jurisdiction** of any other government.” United States v. Wong Kim Ark: 169 U.S. 649, at (706), 725 (dissenting opinion of Justice Fuller, with whom concurred Justice Harlan) (1898).

<http://books.google.com/books?id=4-sGAAAAYAAJ&pg=PA725#v=onepage&q&f=false>

Each State of the Union has political jurisdiction also. Both before and after the adoption of the Fourteenth Amendment:

“The first proposition on which counsel insist, in support of the demurrer is, that this court has no jurisdiction of the case, because it involves the consideration of questions purely political; that is to say, that the main question to be decided is the conflicting claims of the two States to the exercise of **political jurisdiction** and sovereignty over the territory and inhabitants of the two counties which are the subject of dispute. . . .

We consider, therefore, the established doctrine of this court to be, that it has jurisdiction of questions of boundary between two States of this Union, and that this jurisdiction is not defeated, because in deciding that question it becomes necessary to examine into and construe compacts or agreements between those States, or because the decree which the court may render, affects the territorial limits of the **political jurisdiction** and sovereignty of the States which are parties to the proceeding.” State of Virginia v. State of West Virginia: 78 U.S. 39, at 53 and 55

(1871).

<http://books.google.com/books?id=zMEGAAAAAYAAJ&pg=PA53#v=onepage&q&f=false>

reaffirmed in *United States v. Texas* (143 U.S. 621, at 639 thru 640 1892):

“In *United States v. Arredondo*, 6 Pet. 691, the court, referring to *Foster v. Neilson*, 2 Pet. 253, said: ‘This court did not deem the settlement of boundaries a judicial but a political question — that it was not its duty to lead, but to follow the action of the other departments of the government.’ The same principles were recognized in *Cherokee Nation v. Georgia*, 5 Pet. 1 and *Garcia v. Lee*, 12 Pet. 511.

These authorities do not control the present case. They relate to questions of boundary between independent nations, and have no application to a question of that character arising between the General Government and one of the States composing the Union, or between two States of the Union. By the Articles of Confederation, Congress was made ‘the last resort on appeal in all disputes and differences’ then subsisting or which thereafter might arise ‘between two or more States concerning boundary, jurisdiction or any other cause whatever;’ the authority so conferred to be exercised by a special tribunal to be organized in the mode prescribed in those Articles, and its judgment to be final and conclusive. Art. 9. At the time of the adoption of the Constitution there existed, as this court said in *Rhode Island v. Massachusetts*, 12 Pet. 657, 723, 724, controversies between eleven States, in respect to boundaries, which had continued from the first settlement of the colonies. The necessity for the creation of some tribunal for the settlement of these and like controversies that might arise, under the new government to be formed, must, therefore, have been perceived by the framers of the Constitution, and, consequently, among the controversies to which the judicial power of the United States was extended by the Constitution, we find those between two or more States. And that a controversy between two or more States, in respect to boundary, is one to which, under the Constitution, such judicial power extends, is no longer an open question in this court. The cases of *Rhode Island v. Massachusetts*, 12 Pet. 657; *New Jersey v. New York*, 5 Pet. 284, 290; *Missouri v. Iowa*, 7 How. 660; *Florida v. Georgia*, 17 How. 478; *Alabama v. Georgia*, 23 How. 505; *Virginia v. West Virginia*, 11 Wall. 39, 55; *Missouri v. Kentucky*, 11 Wall. 395; *Indiana v. Kentucky*, 136 U.S. 479; and *Nebraska v. Iowa*, ante, 359, were all original suits, in this court, for the judicial determination of disputed boundary lines between States. In *New Jersey v. New York*, 5 Pet 284, 290, Chief Justice Marshall said: ‘It has then been settled by our predecessors, on great deliberation, that this court may exercise its original jurisdiction in suits against a State, under the authority conferred by the Constitution and existing acts of Congress.’ And in *Virginia v. West Virginia*, 78 U.S. 39, 55, it was said by Mr. Justice Miller to be the established doctrine of this court ‘that it has jurisdiction of questions of boundary between two States of this Union, and that this jurisdiction is not defeated, because in deciding that question it becomes necessary to examine into and construe compacts or agreements between those States, or

*because the decree which the court may render, affects the territorial limits of the **political jurisdiction** and sovereignty of the States which are parties to the proceeding.’* So, in *Wisconsin v. Pelican Ins. Co.*, 127 U.S. 265, 287, 288; ‘By the Constitution, therefore, this court has original jurisdiction of suits brought by a State against citizens of another State, as well as of controversies between two States. . . . As to “controversies between two or more States.” The most numerous class of which this court has entertained jurisdiction is that of controversies between two States as to the boundaries of their territory, such as were determined before the Revolution by the King in Council, and under the Articles of Confederation (while there was no national judiciary) by committees or commissioners appointed by Congress.’ “

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And in *State of Missouri v. State of Illinois* (180 U.S. 208, at 230 thru 231 1901):

“In *Virginia v. West Virginia*, 11 Wall. 39, a bill was filed in this court to settle the boundaries between the two States. There was a demurrer to the bill. In delivering the opinion of the court Mr. Justice Miller said:

*‘The first proposition on which counsel insist, in support of the demurrer is, that this court has no jurisdiction of the case, because it involves the consideration of questions purely political; that is to say, that the main question to be decided is the conflicting claims of the two States to the exercise of **political jurisdiction** and sovereignty over the territory and inhabitants of the two countries which are the subject of dispute. This proposition cannot be sustained without reversing the settled course of decision in this court and overturning the principles on which several well-considered cases have been decided.’*

And, after citing *Rhode Island v. Massachusetts*, 12 Pet. 651; *Missouri v. Iowa*, 7 How. 660; *Florida v. Georgia* 17 How. 478, and *Alabama v. Georgia*, 23 How. 505, the conclusion of the court was thus expressed:

*‘We consider, therefore, the established doctrine of this court to be that it has jurisdiction of questions of boundary between two States of this Union, and that this jurisdiction is not defeated because in deciding that question it becomes necessary to examine into and construe compacts and agreements between those States, or because the decree which the court may render affects the territorial limits of the **political jurisdiction** and sovereignty of the States which are parties to the proceeding.’ “*

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And, there is the following:

“Section 1333 (a) (3) provides that ‘adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.’ Petitioner argues that state-court jurisdiction over this personal injury case would contravene this provision. This argument again confuses the **political jurisdiction** of a State with its judicial jurisdiction.” Gulf Offshore Company v. Mobil Oil Corporation: 453 U.S. 473, at 482 (1981).

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Therefore, a person born in a State of the Union is not subject to the political jurisdiction of the United States, but rather, to the political jurisdiction of a particular State.

Political jurisdiction of the United States extends to only the District of Columbia, its territories and possessions, and federal enclaves with the several States of the Union:

“... The Constitution provides that ‘Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district, (not exceeding ten miles square,) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.’ Art. 1, sec. 8.

The necessity of complete jurisdiction over the place which should be selected as the seat of government was obvious to the framers of the Constitution. Unless it were conferred the deliberations of Congress might in times of excitement be exposed to interruptions without adequate means of protection; its members, and the officers of the government, be subjected to insult and intimidation, and the public archives be in danger of destruction. *The Federalist*, in support of this clause in the Constitution, in addition to these reasons, urged that "a dependence of the members of the general government on the State comprehending the seat of the government for protection in the exercise of their duty, might bring on the national councils an imputation of awe or influence, equally dishonorable to the government and dissatisfactory to the other members of the confederacy." *No. 43*.

The necessity of supreme legislative authority over the seat of government was forcibly impressed upon the members of the constitutional convention by occurrences which took place near the close of the Revolutionary War. At that time, while Congress was in session in Philadelphia, it was surrounded and insulted by a

body of mutineers of the Continental Army. In giving an account of this proceeding, Mr. Rawle, in his *Treatise on the Constitution*, says of the action of Congress: 'It applied to the executive authority of Pennsylvania for defence; but, under the ill-conceived constitution of the State at that time, the executive power was vested in a council, consisting of thirteen members, and they possessed or exhibited so little energy, and such apparent intimidation, that the Congress indignantly removed to New Jersey, whose inhabitants welcomed it with promises of defending it. It remained for some time at Princeton without being again insulted, till, for the sake of greater convenience, it adjourned to Annapolis. The general dissatisfaction with the proceedings of the executive authority of Pennsylvania, and the degrading spectacle of a fugitive Congress, suggested the remedial provisions now under consideration.' Rawle, *Constitution of the United States*, 113. Of this proceeding Mr. Justice Story remarks: "If such a lesson could have been lost upon the people, it would have been as humiliating to their intelligence as it would have been offensive to their honor." 2 Story *Constitution*, § 1219.

Upon the second part of the clause in question, giving power to 'exercise like authority,' that is, of exclusive legislation 'over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings,' the Federalist observes that the necessity of this authority is not less evident. 'The public money expended on such places,' it adds, 'and the public property deposited in them, require that they should be exempt from the authority of the particular State. Nor would it be proper for the places on which the security of the entire Union may depend to be in any degree dependent on a particular member of it. All objections and scruples are here also obviated by requiring the concurrence of the States concerned in every such establishment.' 'The power,' says Mr. Justice Story, repeating the substance of Mr. Madison's language, 'is wholly unexceptionable, since it can only be exercised at the will of the State, and therefore it is placed beyond all reasonable scruple.'

This power of exclusive legislation is to be exercised, as thus seen, over places purchased, by consent of the Legislatures of the States in which they are situated, for the specific purposes enumerated. It would seem to have been the opinion of the framers of the Constitution that, without the consent of the States, the new government would not be able to acquire lands within them; and therefore it was provided that when it might require such lands for the erection of forts and other buildings for the defence of the country, or the discharge of other duties devolving upon it, and the consent of the States in which they were situated was obtained for their acquisition, such consent should carry with it political dominion and legislative authority over them. Purchase with such consent was the only mode then thought of for the acquisition by the general government of title to lands in the States. Since the adoption of the Constitution this view has not generally prevailed. Such consent has not always been obtained, nor supposed necessary, for the purchase by the

general government of lands within the States. If any doubt has ever existed as to its power thus to acquire lands within the States, it has not had sufficient strength to create any effective dissent from the general opinion. The consent of the States to the purchase of lands within them for the special purposes named is, however, essential, under the Constitution, to the transfer to the general government, with the title, of **political jurisdiction** and dominion. Where lands are acquired without such consent, the possession of the United States, unless **political jurisdiction** be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the government, is subject to the legislative authority and control of the States equally with the property of private individuals.” Fort Leavenworth Railroad Company v. Lowe: 114 U.S. 525, at 528 thru 531 (1885).

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“... This brings us to the question whether Congress has power to exercise ‘exclusive legislation’ over these enclaves within the meaning of Art. I, § 8, cl. 17, of the Constitution, which reads in relevant part: ‘The Congress shall have Power ... To exercise exclusive Legislation in all Cases whatsoever’ over the District of Columbia and ‘to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.’

The power of Congress over federal enclaves that come within the scope of Art. I, § 8, cl. 17, is obviously the same as the power of Congress over the District of Columbia. The cases make clear that the grant of ‘exclusive’ legislative power to Congress over enclaves that meet the requirements of Art. I, § 8, cl. 17, by its own weight, bars state regulation without specific congressional action. The question was squarely presented in *Pacific Coast Dairy v. Department of Agriculture*, 318 U.S. 285, which involved, as does the present litigation, California’s Act and an attempt to fix the prices at which milk could be sold at Moffett Field. We held that ‘sales consummated within the enclave cannot be regulated’ by California because of the constitutional grant of ‘exclusive legislation’ respecting lands purchased by the United States with the consent of the State (*id.*, at 294), even though there was no conflicting federal Regulation.

Thus the first question here is whether the three enclaves in question were ‘purchased by the Consent of the Legislature’ of California within the meaning of Art. I, § 8, cl. 17.

The power of the Federal Government to acquire land within a State by purchase or by condemnation without the consent of the State is well established. *Kohl v. United States*, 91 U.S. 367, 371. But without the State’s ‘consent’ the United States does not obtain the benefits of Art. I, § 8, cl. 17, its possession being simply that of an

ordinary proprietor. *James v. Dravo Contracting Co.*, 302 U.S. 134, 141-142. In that event, however, it was held in *Ft. Leavenworth R. Co. v. Lowe*, 114 U.S. 525, 541, 542, that a State could complete the 'exclusive' jurisdiction of the Federal Government over such an enclave by 'a cession of legislative authority and **political jurisdiction**.'

Thus if the United States acquires with the 'consent' of the state legislature land within the borders of that State by purchase or condemnation for any of the purposes mentioned in Art. I, § 8, cl. 17, or if the land is acquired without such consent and later the State gives its 'consent,' the jurisdiction of the Federal Government becomes 'exclusive.' " *Paul v. United States*: 371 U.S. 245, at 263 thru 264 (1963).

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"The question presented for determination in this case relates to the effect of proceedings taken under the act of March 3, 1851, to ascertain and settle private land claims in California, upon the claims of parties holding concessions of lands in that State under the Spanish or the Mexican government. By the cession of California to the United States, the rights of the inhabitants to their property were not affected. They remained as before. **Political jurisdiction** and sovereignty over the territory and public property alone passed to the United States. *United States v. Percheman*, 7 Pet. 51, 87." *More v. Steinbach*: 127 U.S. 70, at 78 (1888).

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"The purpose of the Lands Act (the Outer Continental Shelf Lands Act of 1953, 67 Stat. 462, 43 U.S.C. §761 et. seq) was to define a body of law applicable to the seabed, the subsoil, and the fixed structures such as those in question here on the outer Continental Shelf. That this law was to be federal law of the United States, applying state law only as federal law and then only when not inconsistent with applicable federal law, is made clear by the language of the Act. Section 3 makes it the 'policy of the United States' that the affected areas 'appertain to the United States and are subject to its jurisdiction, control, and power of disposition.' Section 4 makes the 'Constitution and laws and civil and **political jurisdiction** of the United States' apply 'to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State.' *Rodrigue v. Aetna Casualty & Surety Company*: 395 U.S. 352, at 355 thru 357 (1969).

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Thus, a citizen of the United States is a citizen of the District of Columbia, the territories and possessions of the United States, and federal enclaves within the several States of the Union.

24. "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens **OF** the several States." (Article IV, Section 2, Clause 1 of the Constitution of the United States) State of Connecticut, Register and Manual, 1922, Prepared pursuant to Section 135 of the General Statutes by The Secretary, page 31.

<http://books.google.com/books?id=8F1IAAAAYAAJ&pg=PA31#v=onepage&q&f=false>

"The determination of the motion to quash the return must, therefore, depend upon the validity of a service made pursuant to this legislation of the state of Kentucky and its efficiency under the constitution of the United States to give the court jurisdiction over the person of a citizen of another state upon whom, confessedly, service was not had unless the service indicated by the return must be held constructively to have given the defendant the notice which he was entitled by law to have before a court acquired jurisdiction over his person. Subsection 1, § 2, art. 4, Const. U.S., is in this language:

‘The citizens of each state shall be entitled to all the privileges and immunities of citizens **OF** the several states.’ **[Note C, Article, Part 1]**

The purpose of this most essential provision, and the vital principle upon which it is based, must be obvious. It was matter of the gravest moment, if the people of the United States were to have ‘a more perfect union,’ or if ‘domestic tranquility’ was to be ‘insured’ to them, as suggested in the preamble, that such a provision should be inserted in the organic law; otherwise each state would take care mainly of its own citizens, and by a system of discriminations, which would naturally grow more strict and hostile as time progressed, we should only have had disunion and contention instead of ‘union’ and ‘tranquility.’ *Hence the profound necessity for the provision that the citizens of each state ‘shall be entitled’ to all the ‘immunities’ of the citizens **OF** the several states.* **[Footnote 16, Footnote 15, Article, Part 1]** This clause was not meant to announce an abstract proposition, but the constitution, with all the force and vigor possible, declares that the citizen of Pennsylvania shall be ‘entitled’ in Kentucky to all the immunities and privileges of the citizens of Kentucky. **[Footnote 17, Article, Part 1]** Moreover, this great provision is mandatory, and must not and cannot be ignored by the courts. It is not claimed that a state court, under the legislative act above copied, could, by the sort of service had in this case, acquired jurisdiction over the persons of citizens of Kentucky unless in the presumably rare instances of their residing elsewhere but continuing to engage in business in Kentucky. Manifestly, under the laws of Kentucky, as the court judicially knows, citizens of that state generally have entire immunity from being subjected to personal judgments for money upon such a service of process in actions at law,—that is to say, citizens of Kentucky generally are exempt from judgments on such service; and, if citizens of Kentucky have such immunity, or are exempt from such consequences, then, in the very language of the constitution of the United States, citizens of Pennsylvania are ‘entitled’ to it also. This is the rule, and citizens of other states could not be deprived of the benefit of its operation, even if the

principles of natural justice, to which we shall have occasion to allude, did not intervene. Nor can the rule be changed, and such a result be accomplished, constitutionally, under cover of the very rare exceptions just mentioned of citizens of Kentucky residing out of the state, but continuing to do business here. The constitutional provision deals with the rights of citizens generally, and its operation cannot be contracted by isolated instances.

The supreme court has persistently declined to limit itself to any express definition of the terms 'privileges and immunities,' as used in the constitution, but has repeatedly held that they were such as are fundamental, and belong to every citizen of all free governments. *Slaughterhouse Cases*, 16 Wall. 77, 21 L.Ed. 394. It is not doubted that one of them is the right to be exempt from a personal judgment for a money demand without the service of process,--an exemption which the supreme court has said was 'founded on principles of natural justice.' *Pennoyer v. Neff*, 95 U.S. 730, 24 L.Ed. 565; *Insurance Co. v. French*, 18 How. 406, 14 L.Ed. 451. That right is doubtless fundamental, and belongs to every citizen of every free country. Such an exemption is certainly an 'immunity' or a 'privilege' of the citizens of Kentucky under the laws and judicial proceedings of that state. If a citizen of Kentucky has the 'immunity' of being exempt, under such circumstances, from a personal judgment, it constitutionally follows that the citizen of Pennsylvania is equally 'entitled' to it. And it may be added that the right to be protected by the constitutional inhibition of any state legislation which shall subject any citizen to the liabilities of a personal judgment without due process of law is the common right of all. Can a citizen of Pennsylvania lose this right in Kentucky by reason of not residing here? We think not. On the contrary, we think it makes no difference where an individual resides or engages in business. The authorities hold that no court of justice in this country can acquire jurisdiction over him, or a right to render a judgment in personam against him, without a service upon him in person of a summons in the action, unless he enters his voluntary appearance therein. Nothing else is 'due process of law.' 95 U.S. 714, 24 L.Ed. 565. Such a statute as the one in question cannot abrogate this fundamental rule as against a citizen of another state, though it cannot be doubted that as against the property of the nonresident so engaged in business there may be a judicial proceeding, which will be due process of law for its subjection to the liabilities of the owner. Of course, a state, as to property or a res within its border, has ample power to provide a course of judicial procedure respecting it and judgments against it. Property not being in any sense a citizen, is not, per se, entitled to any privileges or immunities under the constitution. Hence all the states have attachment laws under which property may be seized and subjected to certain liabilities of the owner, whether he is actually served with process or not. Constructive service is sufficient in such cases.

If, therefore, we went no further, it must be plain upon the face of the Kentucky legislation, when it is tested by the supreme law of the land, that it violates the rights of the defendant as they are guarantied to him by the national constitution by

depriving him of an immunity or exemption allowed to citizens of Kentucky.”  
Moredock v. Kirby: 118 Fed. Rep. 180, at 181 thru 183 (1902).

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## **Article IV, Section 2, Clause 1 of the Constitution**

**Note D:** Citizen of a sister State, Citizens of sister States

Before the Fourteenth Amendment and the *Slaughterhouse Cases*, a citizen of a sister State was the same as a citizen of any other (another) State:

“The second question presented by appellant is, admitting that the service had been made in a proper manner, would this have given the court jurisdiction over the person of appellant? The plaintiff sought to recover a personal judgment. It was not a proceeding against defendant’s property, and the ruling of the court must have been based upon a construction of section 1718 of the Code, that the service of the original notice can be made upon a party out of the State as well as within it. We will regard it as conceded that the appellant was not a resident or citizen of this State. If he had been, the proper mode of service would have been to have left a copy of such notice at his usual place of residence, he not being found. The presumption is, that he was a citizen of Illinois when the service was made. As a ***citizen of a sister State***, he owed no allegiance nor was he amenable to the laws of this State, unless found within its jurisdiction. The constitution of our State does not give, nor can the legislature by any enactment confer, upon the District Court, jurisdiction over the person of a ***citizen of another State***. This doctrine is so well settled, and carries with it so much common sense and justice, that we regard it as useless to add anything further in support of it. Such a construction is also contradictory to the provision of section 1701, which provides that if the person about to be sued has no residence within the State, he may be sued in the county wherein he may be found. Story in his work upon the Conflict of Laws, section 539, says, ‘no sovereignty can extend its process beyond its own territorial limits to subject either person or property to its judicial decisions. Every exertion of authority of this sort beyond this limit is a mere nullity, and incapable of binding such persons or property in any other tribunals.’ “ Weil v. Lowenthal: 10 Iowa (2 Withrow) 575, at 577 thru 578 (1860).

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“Our government is the government of one country, and therefore every ***citizen of a sister State*** should feel (this) State as much his home as his native State. We do feel at home in other States, when we go there. As our sister States require but a single years residence of us to entitle us to the right of suffrage, we should be equal at least to our sister States, in liberality and reciprocity. . . .

Believing that the provision of the Constitution can be retained without danger to our State, I will endeavor to show that not more than one year(‘)s residence in our State should be required, in order to enable a ***citizen of any other State*** to acquire a residence in this State, and exercise all the rights of a citizen thereof. . . .

We should accord the rights of citizenship to such a citizen, because every other State in the Union accords those rights to the citizens of Louisiana after a similar or shorter residence, except the State of South Carolina; and some of the States after three months residence within their limits.” Proceedings and Debates of the Convention of Louisiana which assembled at the City of New Orleans; Robert J. Ker, Reporter; (New Orleans: Besancon, Ferguson & Co.); 1845; Tuesday, January 21, 1845 (at page 53) Mr. Preston, page 65.

<http://books.google.com/books?id=WfluAAAAYAAJ&pg=PA65#v=onepage&q&f=false>

After the adoption of the Fourteenth Amendment and the *Slaughterhouse Cases*, a citizen of a sister State is the same as a citizen of any other (another) State:

“We cannot, as the appellee’s counsel urge us to do, allot any controlling force to section 2658 of the statute, which exempts persons engaged in necessary attendance upon courts from arrest on civil process, for the reason that there was no attempt to arrest the appellee. All that the appellant attempted to do was to compel the appellee to appear, and answer in an ordinary civil action. The fact that an arrest is not, under our system of jurisprudence, made an ordinary civil process, supplies a substantial reason for denying to the ancient decisions a controlling influence, but not for entirely impeaching the validity of their reasoning.

There are strong reasons found in some of the old cases why a ***citizen of a sister State*** who come here to defend one action should not be bound to submit to the service of a summons in another action while here in necessary attendance at court. It is his privilege under our laws, to testify in his own behalf; and this privilege should not be burdened with the hazard of defending other actions in our forums. Our own citizens will often derive a substantial benefit from the personal appearance of a nonresident defendant, since it may enable them to obtain a personal judgment which else were impossible. If citizens of other States are allowed to come into our jurisdiction to attend court as parties or witnesses, and to freely depart from it, the administration of justice will be best promoted, since a

defendant's personal presence is often essential to enable his counsel to justly conduct his defense.

The principle of state comity, too, demands, that a ***citizen of another State***, who submits to the jurisdiction of our courts, and here wages his forensic contest, should not be compelled to do so under the limitation and obligation of submitting to the jurisdiction of our courts in every case that may be brought against him. While coming and departing, as well as while actually in necessary attendance at court, he should be free from the hazard of being compelled to answer in other actions. It is an evidence of respect for our laws and confidence in our courts that he comes here to litigate, and the laws he respects should give him protection. If he can come only under the penalty of yielding to our jurisdiction in every action that may be brought against him, he is deprived of a substantial right, because he is willing to trust our courts and our laws without removing his case to the federal courts, or refusing to put himself in a position where personal judgment may be rendered against him. High considerations of public policy require that the law should encourage him to freely enter our forums by granting immunity from process in other civil actions, and not discourage him by burdening him with the obligation to submit to the writs of our courts if he comes within our borders." Wilson v. Donaldson: 3 L.R.A. 266, at 268 (1889); 20 N.E. 250; 117 Ind. 356.

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"The plaintiffs urge that the right to arrest, in this State, the citizens of another State, for a crime committed against the laws of that other State, is wholly regulated by the Constitution of the United States (Art. 4, § 2, subd. 2) and the act of Congress of 1793 as revised in the United States Revised Statutes (§ 5278) and that this State has no authority to cause the arrest of such citizen without first complying with the requirements of the United States Constitution, for this State does not possess by comity, or otherwise, the right to detain or arrest the ***citizen of another State***. The plaintiff cites many authorities for this proposition, but none of them, we apprehend, goes to the extent of holding that a ***citizen of a sister State*** may not be arrested in this State for a crime committed in such sister State until all the steps have been taken which would justify the rendition of such person. As well say that a man might not be arrested in this State for murder until he has been formally charged with crime by a grand jury. The definition of 'arrest' as given by the Code of Criminal Procedure (§ 167) 'is the taking of a person into custody that he may be held to answer for a crime,' and as it is made the duty of the executive authority of the State, under given conditions, to surrender persons charged with crime in *sister States* (Code Crim. Proc. § 827 et seq.) we apprehend that the arrest of persons believed to have been guilty of crimes in *other States*, that they 'may be held to answer for a crime,' is governed by the same rules which apply to citizens of this State, within our own jurisdiction. This is in harmony with that provision of the Constitution of the United States (Art. 4, § 2, subd. 1), which provides that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in

the several States,' as construed by the court in *Kimmish v. Ball* (129 U.S. 217, 222), where the court say that 'the clause of the Constitution declaring that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States does not give non-resident citizens of Iowa any greater privileges and immunities in that State than her own citizens there enjoy.'

If we are right in this proposition, we are to view the acts of the defendant in the present cases in exactly the same light that we would view the question if the plaintiffs had been citizens of the State of New York and residing here. That is all that can be fairly asked, that citizens of other States, within our jurisdiction, be treated in the same manner that we treat our own citizens." Burton v. New York Central and Hudson River Railroad Company: 147 New York 557, at 560 (1911); 132 New York Supp 628.

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Before the Fourteenth Amendment and the *Slaughterhouse Cases*, citizens of sister states was the same as citizens in the several states:

"The Constitution of the United States in prescribing that the citizens of each State shall have all the rights, privileges, and advantages of citizens of the other States, indicates the principle, that if possible consistently with our safety, we should extend to our fellow ***citizens of our sister States*** all the privileges we enjoy ourselves." Proceedings and Debates of the Convention of Louisiana which assembled at the City of New Orleans; Robert J. Ker, Reporter; (New Orleans: Besancon, Ferguson & Co.); 1845; Tuesday, January 21, 1845 (at page 53) Mr. Preston, page 64.

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"Where a citizen of our State (Vermont) owed a debt to a citizen of New York, it was held, that the debt was subject to our trustee process, though the plaintiff was a citizen of New York, and that it was no objection that the principal debtor was also a citizen of New York; for the ***citizens of sister states*** are entitled to use the courts of Vermont to enforce their legal rights, whether against our own citizens, or others, as fully as they may be used by the citizens of Vermont for that purpose. *Ward v. Morrison*, 25 Vt. (2 Deane,) 593 (1853).

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"Now it is not claimed that the statute of limitations of Massachusetts or of Maine have any force here, or that they can be pleaded here in bar of an action brought in our courts. Those statutes have no force or effect outside of the

territorial limits of the States that enacted them respectively; and we have seen that the statute of limitations of this State does not bar this action on account of the absence of the defendant, of which this plaintiff has the same right to take the advantage that a citizen would have. If any change in our statute is needed, it is a proper subject for legislation. But care should be exercised, even then, that we should not deny to ***citizens of sister States*** the same rights as plaintiffs in our courts that they all accord to our citizens in their courts; and that no enactments be passed by which the citizens of the neighboring States shall not be held as defendants in our courts, when our citizens are held under circumstances precisely similar in all such neighboring States.

We believe that the authorities, both from the civil and the common law, concur in establishing the rule, that the nature, validity, construction and effect of contracts is to be determined by the law of the place where the contract is to be made or is to be performed; *lex loci contractus*. But that all the remedies for enforcing such contracts are regulated by the law of the place where such remedies are pursued; *lex fori*; and that ordinarily the statute of limitations of a State does not in any way attach itself to or affect the contract; it is no part of the *lex loci*, but affects and limits the remedy merely, and belongs purely to the *lex fori*; that it does not operate as a discharge of the contract, or as a defense against the contract itself, but is interposed as a bar to the maintenance of an action; it limits the time within which the remedy must be pursued or applied (*citations omitted*).” Paine v. Drew: 44 New Hamp. 306, at 320 (1862).

<http://books.google.com/books?id=vc4aAAAAAYAAJ&pg=PA320#v=onepage&q&f=false>

After the adoption of the Fourteenth Amendment, citizens of sister states was the same as citizens in the several states:

“I throw out, in the mean while, as a mere suggestion to the gentlemen from Frederick, the enquiry, whether his resolutions will not conflict with some of the provisions in the Constitution of the United States? I do not say that I have formed any clear opinion as to this bearing on the subject, but I throw out the enquiry, as one that may be worthy of consideration. One of the articles of the Constitution declares, ‘that the citizens of each State shall be entitled to all privileges and immunities of ***citizens in the several States***.’

How far the distinction which the gentleman proposes to make between the rights of citizens of Virginia and those of the ***citizens of sister States***, consists with the observance of this Constitutional principle, presents a subject for enquiry: but to the question before us.” Proceedings and Debates of the Virginia State Convention of 1829-30; Ritchie & Cook; (Richmond: Samuel Shepard & Co.); 1830; Monday,

November 23, 1829 (page 430), Mr. P. P. Barbour, page 435.

[http://books.google.com/books?id=K\\_ERAAAAAYAAJ&pg=PA435#v=onepage&q&f=false](http://books.google.com/books?id=K_ERAAAAAYAAJ&pg=PA435#v=onepage&q&f=false)

“In this case the plaintiff is a citizen of Rhode Island, but that fact does not affect the case. *Upton v. Hubbard*, 28 Conn., 275. The ***citizens of all our sister states*** have by the constitution of the United States the same privileges with our own citizens, and any one of them who has availed himself of the legal remedies furnished by our laws, to secure payment of a debt due him, has the same claim to the assistance of our courts that one of our own citizens would have.” *Paine v. Lester*: 44 Conn. 196, at 204 (1876).

<http://books.google.com/books?id=uFsaAAAAAYAAJ&pg=PA204#v=onepage&q&f=false>

However, in the case of *In re Johnson's Estate* (73 Pac. Rep. 424 1903) , it is written on page 425 thru 427:

“... The appellant's 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. ...

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. ... 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. ... 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. ... 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 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. Citizens of territories and aliens are not exempted, and their property is thus liable for the tax.”

<http://books.google.com/books?id=WgE8AAAAIAAJ&pg=PA425#v=onepage&q&f=false>

Citizens of the United States who are also a citizen of a State; that is, a citizen of the United States and a citizen of a State, are included in the phrase “citizens of other states” and “citizens of sister states” Or, in other words, a citizen of the United States, who is also a citizen of a particular state, is a “citizen of another state” or a “citizen of a sister state.”

However, in *Whitfield v. State of Ohio* (297 U.S. 431 1936) it states at the Syllabus, on page 431 at (2):

“2. 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 clause[s] of Art. IV, § 2 and the [privileges or immunities clause of the] Fourteenth Amendment of the Federal Constitution, if it applies also and equally to the citizens of the State that enacted it. P. 437.”

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

And, in the Opinion, on page 437:

“1. 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~~] or 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, 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. *Slaughter-House Cases*, 16 Wall. 36, 1 Woods 21, 28; *Bradwell v. State*, 16 Wall. 130, 138.”

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

According to the *Whitfield* court, a citizen of the United States residing in a State of the Union, is entitled under Section 1, Clause 2 (the privileges or immunities clause) of the Fourteenth Amendment to “privileges and immunities of citizens in the several States” and not under Article IV, Section 2, Clause 1 of the Constitution.

The reason being two fold. Article IV, Section 2, Clause 1 of the Constitution recognizes only a citizen of a State. A citizen of the United States, under Section 1,

Clause 1 of the Fourteenth Amendment, is both a citizen of United States AND a citizen of a State:

“The question is presented in this case, whether, since the adoption of the fourteenth amendment, a woman, who is a citizen of the United States and the State of Missouri, is a voter in that State, notwithstanding the provision of the constitution and laws of the State, which confine the right of suffrage to men alone. . . .

There is no doubt that women may be citizens. They are persons, and by the fourteenth amendment ‘all persons born or naturalized in the United States and subject to the jurisdiction thereof’ are expressly declared to be ‘citizens of the United States and of the State wherein they reside.’ “ Minor v. Happersett: 88 U.S. (21 Wall.) 162, at 165 (1874).

<http://books.google.com/books?id=IEsGAAAAAYAAI&pg=PA165#v=onepage&q&f=false>

Also, Article IV, Section 2, Clause 1 is now a citizen clause, the citizen being, a citizen of the several States.

So there is a citizen of a sister (another) State, and a citizen of the United States:

“Mr. Bullitt. I would like to call the attention of the Convention to what I conceive to be facts that remove the illogical objection which the gentleman mentions, that is, that we are doing now what Justice Miller said we ought to do for ***citizens of sister States*** or ***citizens of the United States***, and in doing that, we say nothing about our own citizens, and it may breed confusion at the polls. They may object to persons voting who have been all the while citizens, because the officers of election may not understand that one year, or two years, whatever it may be, is to convert a ***citizen of the United States***, or a ***citizen of a sister State***, into a citizen of our own State. The limitation is simply to convert a foreigner, if I may so speak in regard to ‘citizens of the United States, or of the Territories or of a sister State,’ into a citizen of our own State, and is sufficient if understood by the officers of election. We ought to regulate the rights of our own citizens; and, therefore, I think it is not illogical, and it is consistent with the rest. This subserves two purposes. It subserves the purpose of saying to our own citizens, or those who are born here, what their rights are, and at the same time it performs the function of a naturalization law for those who come from other States; and I think it is not illogical to provide for both in the same section; and one of the chief objects that we ought to have in view is, to make the election laws so plain that the officers of election, who are not always lawyers, and do not always understand the technical meaning of different words that are used, will understand what we mean.” Official Report of the Proceedings and Debates in the Convention assembled at Frankfort, on the Eighth Day of September, 1890, to adopt, amend, or change the Constitution of the State of Kentucky, Volume II; (Frankfort: E. Polk Johnson); 1890; Friday,

December 5, 1890, Mr. Bullitt, page 1854.

<http://books.google.com/books?id=5NAkAQAAIAAJ&pg=PA1854#v=onepage&q&f=false>

“Two clauses of the United States Constitution are invoked: § 2 of art. 4, which declares that ‘The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States,’ and part of § 1 of the 14th Amendment: ‘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.’

A comparison of the statute under review with the other game laws of the State shows that, with regard to hunting game, greater restrictions are placed upon non-residents than upon residents, and that the penalties incurred by the former for violating the restrictions imposed are severer than those incurred by the latter.

The discriminations of the statute are not based upon the fact of citizenship, nor does it appear by the record before us that the prosecutor was a ***citizen either of a sister State or of the United States***. Consequently, § 2 of article 4 and so much of the 14th Amendment as secures the privileges and immunities of the citizen of the Nation are not applicable to the case in hand.” Allen v. Wyckoff: 2 Cent 213, at 1886).

<http://books.google.com/books?id=sRpLAAAAAYAAJ&pg=PA213#v=onepage&q&f=false>

A citizen of the United States cannot be either a citizen of another State or a citizen of a sister State. However, as in the case of a citizen of a State; a citizen of the United States can be a citizen of the United States AND a citizen of a State, whereas in the case of a citizen of a sister State; a citizen of the United States can be a citizen of the United States AND a citizen of a sister State, while in the case of a citizen of another State; a citizen of the United States can be a citizen of the United States AND a citizen of another State.

**Note E:** Citizen of the several States (before the Fourteenth Amendment)

Before the adoption of the Fourteenth Amendment, privileges and immunities, under Article IV, Section 2, Clause 1 of the Constitution, were fundamental, however, not for a citizen of the several States, but for a citizen of any particular State:

***“The object of the convention in introducing this clause into the constitution,***

***was to invest the citizens of the different states with the general rights of citizenship; that they should not be foreigners, but citizens.*** To go thus far was essentially necessary to the very existence of a federate government, and in reality was no more than had been provided for by the first confederation in the fourth article. . . .

The expressions, however, of the fourth article convey no such idea. It does not declare that ‘the citizens of each state shall be entitled to all privileges and immunities of the citizens **OF** the several states.’ Had such been the language of the constitution, it might, with more plausibility, have been contended that this act of assembly was in violation of it; but such are not the expressions of the article; it only says that ‘The citizens of the several states shall be entitled to all privileges and immunities of citizens **IN** the several states.’ Thereby designing to give them the rights of citizenship, and not to put all the citizens of the United States upon a level.” Campbell v. Morris: 3 Mary. Rep. 535, at 565 [*Opinion of Chase, J. and Duvall, J.* p. 561] Md. (1797); 3 Harr. & McH., 535 Md. 1797.

<http://books.google.com/books?id=m1dGAAAYAAJ&pg=PA565#v=onepage&q&f=false>

“The Constitution of the United States gives the courts of the Union jurisdiction over controversies arising ‘between citizens of different states,’ [Art. III. Sect. II. 1.] and the judicial act gives this Court jurisdiction, ‘where the suit is between a citizen of the state where the suit is brought, and a citizen of another state.’

The Constitution, as well as the law, clearly contemplates a distinction between citizens of different states; and although the 4th article declares, that ‘the citizens of each state, shall be entitled to all privileges, and immunities of citizens in the several states,’ yet they cannot be, in the sense of the judicial article, or of the judicial act, ***citizens of the several states.***” Reports of Cases Decided by the Honourable John Marshall, Late Chief Justice of the United States in The Circuit Court of the United States, for the District of Virginia and North Carolina: From 1802 to 1833 Inclusive; John W. Brockenbrough, Counsellor at Law, (Philadelphia: James Kay, Jun & Brother); 1837, page 390 thru 391; “*Prentiss, Trustee v. Barton’s Executors*”.

<http://books.google.com/books?id=mjK3AAAAIAAJ&pg=PA390#v=onepage&q&f=false>

“2. The next question is, whether this Act infringes that section of the Constitution which declares that ‘the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States’?

***The inquiry is, what are the privileges and immunities of citizens in the several States?*** We feel no hesitation in confining these expressions to those privileges and immunities which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several States which compose this Union, from the

time of their becoming free, independent, and sovereign. . . . ***These, and many others which might be mentioned, are, strictly speaking, privileges and immunities, and the enjoyment of them by the citizens of each State, in every other State,*** was manifestly calculated (to use the expressions of the preamble of the corresponding provision in the old Articles of Confederation) 'the better to secure and perpetuate mutual friendship and intercourse among the people of the different States of the Union." *Corfield v. Coryell*: 4 Wash. C. C. 371 (1825); Cases on Constitutional Law; James Bradley Thayer; (Cambridge: Charles W. Sever); 1894, pages 453 thru 456.

<http://books.google.com/books?id=CFwPAAAAAYAAI&pg=PA454#v=onepage&q&f=false>