

Another Look At Slaughterhouse (On Citizenship)

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Author's Note:

Previous articles of mine have analyzed the *Slaughterhouse Cases*, primarily, in showing that there are indeed two citizens under the Constitution of the United States since the adoption of the Fourteenth Amendment and the decision of the Supreme Court in the *Slaughterhouse Cases*.

This article will show that since the *Slaughterhouse Cases*, there are two citizens under the Constitution of the United States.

The *Slaughterhouse Cases* decided that because of the Fourteenth Amendment there were now two separate and distinct citizens under the Constitution of the United States; a citizen of the United States, under the Fourteenth Amendment; and a citizen of the several States, under Article IV, Section 2, Clause 1. ([Footnotes 1](#)) The last was later reaffirmed in *Cole v. Cunningham*:

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

Previous articles of mine ([Readings](#)) have analyzed the *Slaughterhouse Cases*, primarily, in showing that there are indeed two citizens under the Constitution of the United States since the adoption of the Fourteenth Amendment and the decision of the Supreme Court in the *Slaughterhouse Cases*.

This article will show that since the *Slaughterhouse Cases*, there are two citizens under the Constitution of the United States.

Lets begin with the *Civil Rights Cases*:

“The first section of the Fourteenth Amendment (which is the one relied on), **after declaring who shall be citizens of the United States, and of the several States**, is prohibitory in its character, and prohibitory upon the States. It declares that:

‘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.’ “ Civil Rights Cases: 109 U.S. 3, 10-11 (1883). ([Footnotes 2](#))

What, then, are privileges and immunities of citizens of the United States:

“... [T]he **privileges and immunities of citizens of the United States** protected by the Fourteenth Amendment are privileges and immunities arising out of the nature and essential character of the federal government, and granted or secured by the Constitution.” Duncan v. State of Missouri: 152 U.S. 377, at 382 (1894). ([Footnotes 3](#))

And, what are privileges and immunities of citizens of the several States:

“In the *Slaughter-House Cases* at 83 U.S. 76, IN DEFINING THE **privileges and immunities of citizens of the several states**, this is quoted from the opinion of Mr. Justice Washington in *Corfield v. Coryell*, 4 Wash. C.C. 371:

‘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. What these fundamental principles are it would be more tedious than difficult to enumerate. They may all, however, be comprehended under the following general heads: protection by the government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the government may prescribe for the general good of the whole.’

And, after referring to other cases, this Court added (p. 83 U.S. 77):

‘It would be the vainest show of learning to attempt to prove by citations of authority that, up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the federal government for their existence or protection beyond the very few express limitations which the federal Constitution imposed upon the states -- such, for instance, as the prohibition against ex post facto laws, bills of attainder, and laws impairing the obligation of contracts. But, with the exception of these and a few other restrictions, the entire domain of the **privileges and immunities of citizens of the states**, AS ABOVE DEFINED, lay within the constitutional and legislative power of the states, and without that of the federal government.’ “ Hodges v. United States: 203 U.S. 1 at 15 (1906). ([Footnotes 4](#))

A corporation is neither a citizen of the several States or a citizen of the United States:

“[I]t was also decided that a corporation did not have the rights of its personal members, and could not invoke that provision of Section 2, Article IV, of the

Constitution of the United States, which gave to the citizens of each state the privileges and immunities of citizens OF the several states. See also *Pembina Mining Co. v. Pennsylvania*, 125 U.S. 181; *Ducat v. Chicago*, 10 Wall. 410. And it has since been held in *Blake v. McClung*, 172 U.S. 239, and in *Orient Insurance Company v. Daggs*, 172 U.S. 557, that the prohibitive words of the Fourteenth Amendment have no broader application in that respect." *Waters-Pierce Oil Company v. Texas*: 177 U.S. 28 (1900). ([Footnotes 5](#))

A citizen of the United States can become, by force of the Fourteenth Amendment, a citizen of a State, by residing in such a State. A citizen of the several States, domiciled in a State, is also a citizen of a State by designation of Article IV, Section 2, Clause 1 of the Constitution:

"There can be no doubt that Balk, as a citizen of the State of North Carolina, had the right to sue Harris in Maryland to recover the debt which Harris owed him. Being a citizen of North Carolina, he was entitled to all the privileges and immunities of citizens OF the several states, one of which is the right to institute actions in the courts of another state." *Harris v. Balk*: 198 U.S. 215, at 223 (1905). ([Footnotes 6](#))

Footnotes:

(1) "We think this distinction and its explicit recognition in this Amendment of great weight in this argument, because the next paragraph of this same section (first section, second clause), which is the one mainly relied on by the plaintiffs in error, **speaks only of privileges and immunities of citizens of the United States, and does not speak of those of citizens of the several states.** The argument, however, in favor of the plaintiffs, rests wholly on the assumption that the citizenship is the same and the privileges and immunities guaranteed by the clause are the same." *Slaughterhouse Cases*: 83 U.S. 36, page 74.

And,

"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 (emphasis mine) the several States.'" *Slaughterhouse Cases*: 83 U.S. 36, page 75.

(2) See also the following:

IN THE HOUSE OF REPRESENTATIVES, on March 6, 2001, Mr. Ron Paul, submitted the following concurrent resolution, which was referred to the Committee on International Relations:

107th Congress, 1st Session, H. Con. Res. 49 –

CONCURRENT RESOLUTION

Expressing the sense of Congress that the treaty power of the President does not extend beyond the enumerated powers of the Federal Government, but is limited by the Constitution, and any exercise of such Executive power inconsistent with the Constitution shall be of no legal force or effect.

Whereas article VI of the Constitution provides that only those Treaties made ‘under the Authority of the United States’ are the Supreme Law of the Land;

Whereas the Authority of the United States is limited to the powers of the Federal Government specifically enumerated in the Constitution, and is further limited, by the procedures and prohibitions set forth therein; and

Whereas, as a limit on governmental power, the People of the United States have vested Federal powers in three coequal branches of government, each with unique and limited powers and each with a coequal duty to uphold and sustain the Constitution of the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that--

(1) no treaty, or any provision thereof, which denies or abridges any constitutionally enumerated right shall be of any legal force or effect;

(2) no treaty, or any provision thereof, which denies or abridges the powers reserved by the Constitution to the several States or to the people shall be of any legal force or effect;

(3) no treaty, or any provision thereof, shall authorize or permit any foreign power or any international organization to oversee, supervise, monitor, control, or adjudicate the legal rights or the **privileges and immunities of citizens of the United States or of citizens of the several States**, when such rights, privileges and immunities are, according to the Constitution, subject to the domestic jurisdiction of the United States or the several States; and any decision of any international body to the contrary, shall be disregarded by the courts of the United States and of the several States;

(4) no treaty, or any provision thereof, shall have any force or effect as law within the United States except as provided for by appropriate legislation duly enacted by Congress pursuant to its constitutionally enumerated powers; and

(5) no Executive Agreement, or other agreement between the United States Government and the government of any other nation, shall have any force or effect as law within the United States, but shall be subject to the same procedures and limitations on treaties as set forth in the Constitution, including but not limited to ratification by the two-thirds vote required by article II, section 2.

[<http://thomas.loc.gov/cgi-bin/query/z?c107:H.CON.RES.49:>]

(3) And:

“The objection that the acts abridge the **privileges and immunities of citizens of the United States**, within the meaning of the [14th] amendment, is not pressed, and plainly is untenable. As has been pointed out repeatedly, the privileges and immunities referred to in the amendment are only such as owe their existence to the federal government, its national character, its Constitution, or its laws. *Maxwell v. Bugbee*, 250 U.S. 525, 537-538, and cases cited.” Owney v. Morgan: 256 U.S. 94, at 112-113 (1921).

(4) Also:

“A provision corresponding to this [Justice Miller (*Slaughterhouse Cases*)] found in the Constitution of the United States in section 2 of the fourth article, wherein it is provided that ‘the citizens of each State shall be entitled to all the privileges and immunities of citizens OF the several States.’ What those privileges were is not defined in the Constitution, but the justice said there could be but little question that the purpose of both those provisions was the same, and that the privileges and immunities intended were the same in each. He then referred to the case of *Corfield v. Coryell*, decided by Mr. Justice Washington in the Circuit Court for the District of Pennsylvania in 1823, 4 Washington C.C. 371, where the question of the meaning of this clause in the Constitution was raised. Answering the question what were the **privileges and immunities of citizens of the several States**, Mr. Justice Washington said in that case:

‘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 citizens of the several States which compose this Union from the time of their becoming free, independent and sovereign. What these fundamental principles are it would be more tedious than difficult to enumerate. 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 kind, and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the government may prescribe for the general good of the whole.’ “ Maxwell v. Dow: 176 U.S. 581, at 588-589 (1900).

(5) “The rights now attempted to be asserted are those which arise out of citizenship. It is true, apart from any statute showing an intent to include a corporation as a citizen, that corporations are considered as citizens for some purposes, principally for the purpose of determining jurisdiction of the Federal courts, *Swiss National Ins. Co. Ltd. v. Miller*, 267 U.S. 42, 46, *Puerto Rico v. Russell & Co.* 288 U.S. 476, 479-480; but it is settled that a corporation is not a citizen within the meaning of the Constitution of the United States, art. 4, Section 2, which provides that citizens of each State shall be entitled to all the privileges and immunities of citizens OF the several States, *Attorney General v. Electric Storage Battery Co.* 188 Mass. 239 , *Arizona Commercial Mining Co. v. Iron Cap Copper Co.* 236 Mass. 185 , *Waters-Pierce Oil Co. v. Texas*, 177 U.S. 28, 45, *Hemphill v. Orloff*, 277 U.S. 537, nor within Section 1 of the Fourteenth Amendment which prohibits a State from enforcing any law which shall abridge the privileges or immunities of citizens of the United States. *Bowe v. Secretary of the Commonwealth*, 320 Mass. 230, 251. *Western Turf Association v. Greenberg*, 204 U.S. 359, 363. *Asbury Hospital v. Cass County*, 326 U.S. 207.” Pilgrim Real Estate, Incorporated v. Boston, Superintendent of Police: 330 Mass. 252, at 252 (1953).

(6) To this:

“Section 11079, Iowa Code 1927, also 1931, in effect since 1851, provides:

‘When a corporation, company, or individual has, for the transaction of any business, an office or agency in any county other than that in which the principal resides, service may be made on any agent or clerk employed in such office or agency, in all actions growing out of or connected with the business of that office or agency.’ . . .

The cause is here by appeal. Appellant insists that, if construed as applicable to him, a citizen of another state never in Iowa, in the circumstances disclosed by the record, §11079 offends the Federal Constitution, §2, art. 4, and §1, Fourteenth Amendment.

The Supreme Court affirmed the action of the trial court upon authority of *Davidson v. Henry L. Doherty & Co.*, 214 Iowa, 739, 241 N.W. 700, 701. The opinion in that cause construed § 11079, and, among other things, said:

‘By its terms and under our holding, the statute is applicable to residents of “any other county” than that in which the principal resides, whether such county be situated in Iowa or in some other state. In other words, the statute does apply to nonresidents of Iowa who come within its terms and provisions, as well as to residents. Our construction of the statute has stood since 1887. . . . We adhere to our former holdings that the statute is applicable to individual nonresidents who come within its express terms and provisions. . . .’

‘The statute in question does not in any manner abridge the privileges or immunities of citizens of the several states. It treats residents of Iowa exactly as it treats residents of all other states. The citizens of each state of the United States are, under this statute, entitled to all the privileges and immunities accorded citizens of this state.’ “ Henry L. Doherty & Company v. Goodman: 294 U.S. 623, at 626, 627 (1935).

Readings:

To read more on this subject:

Dan Goodman, "Slaughterhouse Cases, Two Citizens", at:
<http://mhkeehn.tripod.com/DG1TwoCitizens.pdf>.

Dan Goodman, "Slaughterhouse Cases, Up Close", at:
<http://mhkeehn.tripod.com/DG2UpClose.pdf>.

Dan Goodman, "Two citizens under the Constitution", at:
<http://mhkeehn.tripod.com/DG3TwoCitizens.pdf>.

Dan Goodman, "Privileges and Immunities of a Citizen of the several States", at:
<http://mhkeehn.tripod.com/DG4PrivilegesAndImmunities.pdf>.

Dan Goodman, "Mistake in the Syllabus", at:
<http://mhkeehn.tripod.com/DG5MistakeInSyllabus.pdf>.

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