Yes there is a citizen of the several States

The Supreme Court, in the *Slaughterhouse Cases*, held, that there are now two citizens under the Constitution of the United States of America, a citizen of the United States, at Section 1 of the Fourteenth Amendment, and also a citizen of the several States, at Article IV, Section 2, Clause 1 of the Constitution **[Footnote 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 (Section 1, Clause 2 of the Fourteenth Amendment), which is the one mainly relied on by the plaintiffs in error, speaks **ONLY** of ***privileges and immunities of citizens of the United States, and does not speak of those (privileges and immunities) of citizens of the several States***. . . .

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

In the Constitution of the United States, which superseded the Articles of Confederation, the corresponding provision is found in section two of the fourth article, in the following words: 'The citizens of each State shall be entitled to all the ***privileges and immunities of citizens OF the several States***.' " Slaughterhouse Cases: 83 U.S. (16 Wall.) 36, at 74, 75 (1873). **[Footnote 2]**

http://books.google.com/books?id=DkgFAAAAYAAJ&pg=PA74#v=onepage&q&f=false

Further:

"In speaking of the meaning of the phrase '***privileges and immunities of citizens OF the several States***,' under section second, article fourth, of the Constitution, it was said by the present Chief Justice, in *Cole v. Cunningham*, 133 U.S. 107, that the intention was 'to confer on the ***citizens of the several States a general citizenship***, and to communicate all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances, and this includes the right to institute actions.' " Maxwell v. Dow: 176 U.S. 581, at 592 (1900). **[Footnote 3]**

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

A citizen of the several States is shown in the following legal sources:

"The intention of section 2 of Article 4 was to confer on the ***citizens of the several States a general citizenship***, and to communicate ***all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances, and this includes the right to institute actions***." Cole v. Cunningham: 133 U.S. 107, at 113 thru 114 (1890).

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

(Thus, a citizen of the several States, is a citizen of all the several States, generally or a citizen of the several States united.)

"The general views we have expressed are sustained by *Kimmish v. Ball*, 129 U.S. 217, 220, 222. That case involved the validity of section 4059 of the Iowa Code providing, in respect of Texas cattle that had not been wintered at least one winter north of the southern boundary of Missouri or Kansas, that 'if any person now or hereafter has in his possession, in this State, any such Texas cattle, he shall be liable for any damages that may accrue from allowing said cattle to run at large, and thereby spreading the disease among other cattle known as the Texas fever, and shall be punished as is prescribed in the preceding section.' It was contended that that section was in conflict with the power of Congress to regulate commerce among the States, as well as with section 2 of Article 4 of the Constitution of the United States relating to the ***privileges and immunities of citizens of the several States***." Missouri, Kansas and Texas Railway Company v. Haber: 169 U.S. 613, at 630 thru 631 (1898).

http://books.google.com/books?id=4-sGAAAAYAAJ&pg=PA630#v=onepage&q&f=false

". . . So, a State may, by rule uniform in its operation as to citizens of the several States, require residence within its limits for a given time before a citizen of another State who becomes a resident thereof shall exercise the right of suffrage or become eligible to office. It has never been supposed that regulations of that character materially interfered with the enjoyment by ***citizens of each State of the privileges and immunities secured by the Constitution TO CITIZENS OF THE SEVERAL STATES***. The Constitution forbids only such legislation affecting citizens of the respective States as will substantially or practically put a citizen of one State in a condition of alienage when he is within or when he removes to another State, or when asserting in another State the rights that commonly appertain to those who are part of the political community known as the People of the United States, by and for whom the Government of the Union was ordained and established. Blake v. McClung: 172 US. 239, at 256 thru 257 (1898).

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

"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***, **[see Note]** 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=-QwLAAAAYAAJ&pg=PA143#v=onepage&q&f=false

(**Note**: " . . . [I]t is certain that the Constitution of the United States confers no power whatever upon the government of the United States to regulate marriage in the States or its dissolution." Andrews v. Andrews: 188 U.S. 14, at 32 (1903).

http://books.google.com/books?id=Gd4GAAAAYAAJ&pg=PA32#v=onepage&q&f=false)

"In speaking of the meaning of the phrase '***privileges and immunities of citizens of the several States***,' under section second, article fourth, of the Constitution, it was said by the present Chief Justice, in *Cole v. Cunningham*, 133 U.S. 107, that the intention was 'to confer on the ***citizens of the several States a general citizenship***, and to communicate ***all the privileges and immunities which the citizens of the same State would be entitled to under the like circumstances, and this includes the right to institute actions***..' " Maxwell v. Dow: 176 U.S. 581, at 592 (1900).

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

"And (in *Paul v. Virginia*, 8 Wall. 168) it 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, 45 (1900).

http://books.google.com/books?id=qOAGAAAAYAAJ&pg=PA45#v=onepage&q=&f=false

"These words 'privileges and immunities,' are found in Article 4, Sec. 2, declaring that the 'citizens of each state shall be entitled to all the ***privileges and immunities of citizens of the several states***,' and in *Corfield v. Coryell*, Justice Washington gives them a definition frequently quoted in textbooks and decisions, and it has been highly extolled as approvable. He said that such privileges and immunities could be 'all comprehended under the following general heads: Protection by the government, 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.' . . . .

. . . Article 4 in the section quoted in that case contains a guaranty by the federal government against denial by one state to a citizen of another state of the privileges and immunities given by the former state to its own citizens, and does not

relate to the federal citizen's rights, nor to the adverse action by a state upon its own citizen under its own laws." A Treatise on the Rights and Privileges Guaranteed by the Fourteenth Amendment to the Constitution of the United States; Henry Brannon (Judge of the Supreme Court of West Virginia); W. H. Anderson & Company; 1901; page 68 & 70.

http://books.google.com/books?id=1-A9AAAAIAAJ&printsec=titlepage&source=gbs_summary_r&cad=0

". . . But it is a settled principle of constitutional law that a corporation is not a citizen within the meaning of that clause of the constitution of the United States which declares that '***the citizens of each state shall be entitled to all privileges and immunities of citizens of the several states***.' 10 Cyc., 150; *Ducat v. Chicago*, 48 Ill., 172; *Tatem v. Wright*, 23 N. J. Law, 429; *Ducat v. Chicago*, 10 Wall., 410." Humphreys v. State of Ohio: 70 Ohio 67, at 86 (1904).

http://books.google.com/books?id=0_oLAAAAYAAJ&pg=PA86#v=onepage&q=&f=false

"It has frequently been declared to be a well-established principle of constitutional law that a corporation is not a 'citizen,' within the meaning of the first clause of section 2 of article 4 of the Constitution of the United States, which declares the ***citizens of each state shall be entitled to all privileges and immunities of citizens of the several states***. *Ducat v. City of Chicago*, 48 111. 172, 95 Am. Dec. 529; *Same v. Same*, 10 Wall. 410, 19 L. Ed. 972; 10 Cyc. 150; *Tatem v. Wright*, 23 N. J. Law, 429; *Pembina Con. Silver Mining Co. v. Pennsylvania*, 125 U. S. 181, 8 Sup. Ct. 737, 31 L. Ed. 650; *Humphreys v. State (Ohio),* 70 N. E. 957. . . . [The first sentence of the first section of said fourteenth amendment] declares that all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States. The subsequent declaration, preserving unabridged the privileges and immunities of citizens of the United States, has reference only to the natural persons declared to be citizens by the preceding sentence. . . . A corporation is a mere creature of the local law whereby it has its existence. It is not a citizen of the United States, and has no right, because of its chartered powers, to exercise corporate power beyond the territorial limits of the state which created it." In Re Speed's Estate: 74 N.E. 809, 811 (1905).

http://books.google.com/books?id=3AELAAAAYAAJ&pg=PA811#v=onepage&q=&f=false

"It has been held that a corporation does not have the rights of its personal members and cannot invoke the provision of Article IV, Section 2, of the Federal Constitution, which gives to the citizens of each state the privileges and immunities of citizens of the several states. *Pembina Mining Co. v. Pa*., 125 U.S. 181." Public Documents of the State of Wisconsin: Being the Reports of the Various State Officers, Departments and Institutions, for the Fiscal Term ending June 30, 1906, Volume 1, (1907), Madison: Democrat Printing Company, State Printer, "Opinions of the

Attorney General of Wisconsin, June 9, 1906", page 758, at page 760.

http://books.google.com/books?id=k-oaAQAAIAAJ&pg=PA758#v=onepage&q=&f=false

"It this were not so, it is easy to perceive how the power of Congress to regulate commerce with foreign nations and among the several States could be practically annulled, and ***the equality of commercial privileges secured by the Federal Constitution TO CITIZENS OF THE SEVERAL STATES be materially abridged and impaired***." Guy v. City of Baltimore: 100 U.S. 434, 439-440 (1879); reaffirmed, I.M. Darnell & Son Company v. City of Memphis: 208 U.S. 113, 121 (1908).

http://books.google.com/books?id=kBc3AAAAIAAJ&pg=PA439#v=onepage&q&f=false

http://books.google.com/books?id=O-AGAAAAYAAJ&pg=PA121#v=onepage&q&f=false

"The White Slave Traffic Act of June 25, 1910, c. 395, 36 Stat. 825, is a legal exercise of the power of Congress under the commerce clause of the Constitution and does not abridge ***the privileges or immunities of citizens of the States*** or interfere with the reserved powers of the States, especially those in regard to regulation of immoralities of persons within their several jurisdictions." *Statement of the Case*, Hoke v. United States: 277 U.S. 308, at 309 (1913).

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

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

3. Because that clause of the Constitution which reserves to Congress the power (Art. I, Sec. 8, Subdiv. 2) 'To regulate Commerce with foreign Nations, and among the several States,' etc. , is not broad enough to include the power to regulate prostitution or any other immorality of ***citizens of the several States*** as a condition precedent (or subsequent) to their right to travel interstate or to aid or assist another to so travel." *Opinion*, Hoke v. United States: 277 U.S. 308, at 319 (1913).

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

"The 'privileges and immunities of citizens of the several states' are 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. They may 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." *Brawner v. Irvin*,

169 Fed. 964, 967 (quoting and adopting definition in *Corfield v. Coryell*, 4 Wash. C. C. 371, 380, 6 Fed. Cas. 546; quoted in *Slaughter-House Cases*, 16 Wall. [83 U.S.] 36, 21 L. Ed. 394, and in *Hodges v. United States*, 27 Sup. Ct. 6, 203 U.S. 1, 51 L. Ed. 65); *Shaw v. City Council of Marshalltown*, 104 N. W. 1121, 1123, 131 Iowa, 128, 10 L. R. A. (N. S.) 825, 9 Ann. Cas. 1039 (citing and adopting definition in *Corfield v. Coryell*, 4 Wash. C. C. 371, 6 Fed. Cas. 546,)." Judicial and Statutory Definitions of Words and Phrases; Second series; St Paul: West Publishing Company; 1914; Volume 3, page 1214.

http://books.google.com/books?id=9pENAAAAYAAJ&pg=PA1214#v=onepage&q&f=false

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:

Nationality	1914	1919
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=8y0pAAAAYAAJ&pg=PA38#v=onepage&q&f=false

http://books.google.com/books?id=oC4pAAAAYAAJ&pg=PA14#v=onepage&q&f=false

(on page 15)

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

"The power of a State to make reasonable and natural classifications for purposes of taxation is clear and not questioned; but neither under form of classification nor otherwise can any State enforce taxing laws which in their

practical operation materially abridge or impair ***the equality of commercial privileges secured by the Federal Constitution to citizens of the several States***." Chalker v. Birmingham & N.W. Railroad Company: 249 U.S. 522, 526-527 (1919).

http://books.google.com/books?id=6-gGAAAAYAAJ&pg=PA526#v=onepage&q&f=false

"From very early in our history, requirements have been imposed upon non-residents in many, perhaps in all, of the States as a condition of resorting to their courts, which have not been imposed upon resident citizens. For instance, security for costs has very generally been required of a non-resident, but not of a resident citizen, and a non-resident's property in many States may be attached under conditions which would not justify the attaching of a resident citizen's property. This court has said of such requirements:

> 'Such a regulation of the internal affairs of a State cannot reasonably be characterized as hostile to the fundamental rights of citizens of other States. . . . It has never been supposed that regulations of that character materially interfered with the enjoyment by ***citizens of each State of the privileges and immunities secured by the Constitution to citizens of the several States***.' *Blake v. McClung*, 172 U.S. 239, 256." Canadian Northern Railroad Company v. Eggen: 252 U.S. 553, at 561 thru 562 (1920).

http://books.google.com/books?id=yekGAAAAYAAJ&pg=PA561#v=onepage&q&f=false

"Respondent, ***a citizen*** and resident ***of the state of Idaho***, brought this action to recover §952 from the defendant, as sheriff of Elko county, Nevada. . . .

Two questions are presented in this case: First, is the statute violative of section 2, art. 4, of the federal Constitution? And, second, if the statute is void, was the payment so involuntary as to justify its recovery?

The section of the Constitution mentioned reads:

> 'The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.'

The question is: Does the act in question discriminate against citizens of other states? . . .

The question of the constitutionality of the act came before the Supreme Court of that state, where the point was made, as here, that the act was unconstitutional because it was discriminatory against citizens of other states. That court held that the act did not discriminate against citizens of sister states. . . .

The case was taken to the Supreme Court of the United States, and that court

took the opposite view and reversed the judgment of the Tennessee court. It said:

> 'The power of a State to make reasonable and natural classifications for purposes of taxation is clear and not questioned; but neither under forms of classification nor otherwise can any State enforce taxing laws which in their practical operation materially abridge or impair the ***equality of commercial privileges secured by the Federal Constitution to citizens of the several States***. . . . . ' *Chalker v. Birmingham & Northwestern Railroad Company*: 249 U.S. 522, 39 Sup. Ct 366, 63 L.Ed. 748. . . .

Whether or not we are disposed to agree with the reasoning of Supreme Court of the United States as presented in the above quotation is of no consequences, since the ruling is controlling upon us, and it seems that its viewpoint as presented in the quotation is equally as forceful in its application to this case as it was to the case in which it stated the rule." Hostetler v. Harris: 197 Pac. Rep. 697, at 697, 698 (1921).

http://books.google.com/books?id=ib-ZAAAAIAAJ&pg=PA697#v=onepage&q&f=false

"The case 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, 14th Amendment.

The Supreme Court affirmed the action of the trial court upon authority of *Davidson v. H. L. Doherty & Co.* , (1932) 214 Iowa 739; 241 N.W. 700. 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 non-residents 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 non-residents 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***.' . . . .

So far as it affects appellant, the questioned statute goes no farther than the principle approved by [this] opinion permits. Only rights claimed upon the present record are determined. The limitations of §11079 under different circumstances we do not consider." Henry L. Doherty & Company v. Goodman: 294 U.S. 623, at 626, 628 (1935).

http://books.google.com/books?id=4-sGAAAAYAAJ&pg=PA630#v=onepage&q&f=false

"The trial court's findings with respect to the difficulties and the cost of enforcement of the collection of the license taxes from nonresident fishermen may well have been directed to an inquiry into those matters which the court in *Toomer v. Witsell*, (334 U.S. 385, 394), indicated might justify some discrimination in license fees charged resident and nonresident fishermen. In that case, in considering whether the discrimination by South Carolina with respect to license fees for shrimp boats owned by residents and for those owned by nonresidents were in violation of Article IV, § 2 relating to the ***privileges and immunities of citizens of the several States***, the court, after finding no reason sufficient to justify the discrimination concluded by saying." Anderson v. Mullaney, Commissioner of Taxation: 191 F.2d 123, at 133 (1951).

http://scholar.google.com/scholar_case?case=5974372427335109672

"Any discrimination must be reasonable to be sustained. Here nothing appears that will in any way justify the application of the prohibition to non-residents and not to residents. The law, Chapter 62, is a law passed by the State of Alaska which abridges the ***privileges and immunities of citizens of the several States***." Brown v. Anderson: 202 F. Supp. 96, at 103 (1962).

http://scholar.google.com/scholar_case?case=8863588963862755649

"Nonresidents have the right to bring an action in our courts as ***one of the privileges guaranteed to citizens of the several states*** by the Constitution of the United States, Article IV, Section 2. *Howle v. Twin States Express, Inc.* , 237 N.C. 667, 75 S.E.2d 732 (1953); *Merchants & Planters Nat. Bank v. Appleyard*, 238 N.C, 145, 77 S.E.2d 783 (1953); *Thomas v. Thomas*, 248 N.C. 269, 103 S.E.2d 371 (1958)." Whitehead v. Whitehead: 185 S.E.2d 706, at 709 (1972).

http://scholar.google.com/scholar_case?case=13307646959303340791

Thomas v. Thomas (at 373)

http://scholar.google.com/scholar_case?case=14389091273910070191

Merchants & Planters National Bank v. Appleyard (at 787)

http://scholar.google.com/scholar_case?case=563938893719894274

Howle v. Twin States Express, Incorporated (at 735)

http://scholar.google.com/scholar_case?case=10150598783717948540

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Illustration A

Source: Federal Procedure at Law; A Treatise on the Procedure in Suits at Common Law in the Circuit Courts of the United States; C.L. Bates, of the Bar of San Antonio, Texas; Chicago; T.H. Flood and Company; ©1908; Preface, p. 215, 220-221, 229.

Preface

_____

The purpose of this work is to state the principles controlling the judicial procedure in suits at common law, in the circuit courts of the United States. (emphasis mine) There are inherent difficulties in the subject, resulting from the complex basis of that procedure, there being four distinct sources from which its rules and principles are derived, namely, (1) the federal constitution, (2) the English common law, (3) the federal statutes, and (4) the state procedure. The act of conformity adopts the state procedure only "as near as may be" — consistently with the federal constitution and valid laws of the United States.

The great outlines of federal procedure are laid in the constitution, and cannot be overridden by acts of congress adopting state procedure. Among the rights secured by those constitutional provisions is the right to a trial, in suits at common law, by a jury, as that right existed at common law. The federal government is the only government on this continent preserving that right in its full integrity. The states are, in many insidious ways, breaking away from this great guaranty of life, liberty and property — this great fundamental principle of Anglo-Saxon civilization. The jurisdiction, both original and appellate, of the several courts of the federal judicial system, and the nature and character of the judicial remedies and procedure established and pursued in them, arise out of and are limited by the nature of the dual system of government created by the federal consti-

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(vi)

tution, the relations existing between the federal and state governments, the constitutional powers of each, respectively, and the limitations imposed upon each of them by the fundamental law, and, therefore, a comprehensive knowledge of the entire scheme of government is absolutely essential to an accurate knowledge and full comprehension of federal jurisdiction and procedure in all their branches and details; and, for this reason, the author has, as a basis of the discussion of Federal Procedure at Law, assayed a statement of

the Dual System of Government established by the constitution, the constitutional limitations of the state and federal governments, the judicial power of the federal government, the creation of the federal judiciary, the jurisdiction of all the courts of the system, and the distinction between law, equity and admiralty, and the remedies appropriate to each, as maintained in the federal courts. An effort has been made to define suits at common law, and to point out and particularly specify the particulars in which the federal courts will, and in which they will not, conform to state procedure in suits at common law.

The work has been written in the hope that it may supply an additional aid to the working lawyer and also to the earnest student of American institutions, and is respectfully submitted to the kindly judgment of the American bench and bar.

C. L. BATES.

San Antonio, Texas, June 1, 1908.

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(d) THE PRIVILEGES AND IMMUNITIES OF THE CITIZENS OF THE SEVERAL STATES.

(page 220)

§244. Privileges and immunities of the citizens of the several states under the constitution. — The constitution as originally adopted declares that: "The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states." (fn 52) This provision secures valuable rights to the ***citizens of the several states***, and is in effect, a limitation upon the states; it inhibits each state from denying to the citizens of the several other states the privileges and immunities possessed and enjoyed by its own citizens. (fn 53)

§245. Same — Defined by Justice Washington. — This provision of the constitution was first brought under judicial construction in a case in the circuit court in which Mr. Justice Washington, answering the question, what are the ***privileges and immunities of the citizens of the several states***, said:

"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. What these fundamental principles are, it would perhaps be more tedious than difficult to enumerate. They may, however, be 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 justly prescribe for the general good of the whole. The right of a citizen of one state to pass through or to reside in any other state for the purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus;

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51 1 U. S. Stat. at L. 4.

52 U. S. Const. Art. IV, sec. 2, cl. 1.

53 Paul v. Virginia, 8 Wall. 168, 180 (19:357); Slaughter-House Cases, 16 Wall. 36, 130 (21:394); Blake v. McClung, 172, 230, 264 (43:432); Ward v. Maryland, 12 Wall. 418, 433 (20:449).

(page 221)

to institute and maintain actions of any kind in the courts of the state; to take, hold and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the 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; to which may be added the elective franchise as regulated and established by the laws or constitution of the state in which it is to be exercised. 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 expression of the preamble to 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." (fn 54)

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54 Corfield v. Coryell, 4 Wash. (C. C.) 371, Fed. Cas. No. 3,230.

(page 229)

§256. Same — Intention of the constitutional provision. — The intention of the first clause of the second section of the fourth article of the constitution was to confer on the citizens of the several states a general citizenship, and to communicate all the privileges and immunities which the citizens of the same state would be entitled to under the like circumstances. (fn 68)

(e) THE PRIVILEGES AND IMMUNITIES OF CITIZENS OF THE UNITED STATES NOT TO BE ABRIDGED.

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68 Cole v. Cunningham, 133 U. S. 107, 138 (33:538).

(To see online click the following link

http://books.google.com/books?id=EOY9AAAAIAAJ&pg=PR5#v=onepage&q&f=false

(Preface)

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(Privileges and Immunities of the Citizens of the Several States)

_____

Footnotes:

1. That there is a citizen of the several States and also a citizen of the United States is shown in the following:

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

the United States or naturalized, is declared to be a citizen of the United States and of the State wherein he resides.

"After creating and defining citizenship of the United States, the fourteenth amendment provides, that 'no State shall make or enforce any law which shall abridge the privileges or immunities of *citizens of the United States* (emphasis not mine).' This clause is intended to be a protection, not to all our rights, but to our rights as citizens of the United States only; that is, to rights existing or belonging to that condition or capacity. The expression, citizen of a State, used in the previous paragraph, is carefully omitted here. In Article 4, section 2, subdivision 1, of the Constitution of the United States, it had been already provided, that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.' The rights of ***citizens of the states*** **[see Note]** (under Article IV, Section 2, Clause 1) and of ***citizens of the United States*** (under Section 1, Clause 2 of the Fourteenth Amendment) are each guarded by these different provisions. That these rights are separate and distinct, was held in the *Slaughter-House Cases,* (16 *Wallace,* 36,) recently decided by the Supreme Court. The rights of citizens of the State, as such, are not under consideration in the fourteenth amendment. They stand as they did before the adoption of the fourteenth amendment, and are fully guaranteed by other provisions. The rights of ***citizens of the states*** have been the subject of judicial decision on more than one occasion. *(Corfield v. Coryell*, 4 *Wash. C. C. R.,* 371; *Ward* v. *Maryland,* 12 *Wallace,* 418, 430; *Paul* v. *Virginia,* 8 *Wallace,* 168.) These are the fundamental privileges and immunities belonging of right to the citizens of all free governments, such as the right of life and liberty, the right to acquire and possess property, to transact business, to pursue happiness in his own manner, subject to such restraint as the Government may adjudge to be necessary for the general good. In *Crandall v. Nevada*, 6 Wallace, 35, 44, is found a statement of some of the rights of a citizen of the United States, viz, to come to the seat of government to assert any claim he may have upon the Government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions, and to have free access to its seaports, through which all the operations of foreign commerce are conducted, to the sub-treasuries, the land offices, the revenue offices, and the Courts of justice in the several States. 'Another privilege of a citizen of the United States,' says Mr. Justice Miller, in the *Slaughter-House Cases*, 'is to demand the care and protection of the Federal Government over his life, liberty, and property, when on the high seas or within the jurisdiction of a foreign government.' 'The right to peaceably assemble and petition for redress of grievances, the privilege of the writ of *habeas corpus* (emphasis not mine),' he says 'are rights of the citizen guaranteed by the Federal Constitution." United States v. Susan B. Anthony: 11 2 nd Jud. Cir. 200, at 203 thru 204 (1873).

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

This clause does not refer to ***citizens of the States*** **[see Note]**. It embraces only ***citizens of the United States***. It leaves out the words '***citizen of the State***,' which is so carefully used, and used in contradistinction to citizens of the United States, in the preceding sentence. It places the privileges and immunities of citizens of the United States under the protection of the Federal constitution, and leaves the privileges and immunities of citizens of a State under the protection of the State constitution. This is fully shown by the recent decision of the Supreme Court of the United States in the *Slaughter-House Cases*, 16 Wall. 36." Cory v. Carter: 17 Am. Rep. 738, at 753, 48 Ind. 327 (1874).

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"Williams was arrested upon a warrant charging him with 'the offense of acting as emigrant agent without a license.' He made application to the judge of the superior court of the Ocmulgee circuit for a writ of habeas corpus, alleging that the warrant under which he was arrested charged him with a violation of that provision of the general tax act of 1898 which imposed 'upon each emigrant agent, or employer or employe of such agents, doing business in this state, the sum of five hundred dollars for each county in which such business is conducted.' Acts 1898, p. 24. He further alleged that the law which he was charged with having violated was in conflict with certain provisions of the constitutions of the United States and of the state of Georgia, enumerating in the application the various clauses of which the act was alleged to be violative . . . .

Is the law (the general tax act of 1898) a regulation or restriction of intercourse among the citizens of this state and those of other states? Under this branch of commerce the states are prohibited from passing any law which either restricts the free passage of the ***citizens of the United States*** through the several states, or which undertakes to regulate or restrict free communication between the ***citizens of the several states***. A tax on the right of a citizen to leave the state, or on the right of a citizen of another state to come into the state, is a regulation of interstate commerce, and void. *Crandall v. Nevada*, 6 Wall. 35, 18 L.Ed. 744; *Henderson v. Mayor*, etc., 92 U.S. 259, 23 L.Ed. 543; *People v. Compagnie Generale Transatlantique*, 107 U.S. 59, 2 Sup. Ct. 87, 27 L.Ed. 383; *Passenger Cases*, 7 How. 282, 12 L.Ed. 702. Nor can a state pass a law which attempts to regulate or restrict communication between the ***citizens of different states***. *Telegraph Co. v. Pendleton*, 122 U.S. 347, 7 Sup. Ct. 1126, 30 L.Ed. 1187; *Pensacola Tel. Co. v. W. U. Tel. Co.*, 96 U.S. 1, 24 L.Ed. 708. But the law under consideration in the present case neither regulates nor restricts the right of citizens of this state to leave its territory at will, nor to hold free communication with the citizens of other states." Williams v. Fears: 35 S.E. 699, at

699, 701 (1900).

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"(425). . . The appellants' first contention was, as expressed by the commissioner in the opinion in the *Mahoney Case*, 'that legacies to nephews and nieces are exempt from the collateral inheritance tax, whether they reside in this state or not.' This contention was a claim that section 2 of article 4 of the Constitution of the United States secured not merely to citizens of other states the immunities and privileges granted by a state to its own citizens, but secured the same to aliens, to residents of territories, and citizens of the United States who are not citizens of any state, none of which classes come under the protecting shield of the Constitution. . . .

(426) Section 2, art. 4, of the Constitution of the United States, declares that 'the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.' In this there is no striking down of or limitation upon the right of a state to confer such immunities and privileges as it may deem fit upon its own citizens. The clause of the Constitution under consideration is protective merely, not destructive, nor yet even restrictive. Over and over again has the highest court of the United States so construed this provision. Thus in the *Slaughter House Cases*, 16 Wall. 36, 21 L. Ed. 394, it is said: 'The constitutional provision there alluded to did not create those rights which it called privileges and immunities of ***citizens of the States***. . . . Nor did it profess to control the power of the state governments over the rights of its own citizens. Its sole purpose was to declare to the several states that "whatever rights, as you grant or establish them to your own citizens, or as you limit or qualify or impose restrictions on their exercise, the same—neither more nor less—shall be the measure of the rights of citizens of other states within your jurisdiction." ' See, also *Blake v. McClung*, 172 U.S. 239, 19 Sup. Ct. 165, 43 L. Ed. 432; *Ward v. Maryland*, 12 Wall. 418, 20 L. Ed. 449. It will be noted not only that the constitutional provision is not restrictive, but that it is neither penal nor destructive. It nowhere intimates that an immunity conferred upon citizens of a state, because not in terms conferred upon citizens of sister states, shall therefore be void. Some force might be given to such an argument, were the constitutional provision couched in appropriate language for the purpose. If, for example, it had said, 'No citizen of any state shall be granted any immunity not granted to every citizen of every state,' or had it begun its declaration by saying that 'it shall be unlawful to grant to citizens of any state any privilege or immunity not granted to citizens of every state,' it might then have been argued that a legislative attempt so to do would be declared violative of the express mandate of the Constitution, and therefore void. But such is neither the scope, purpose, nor intent of the provision under consideration. It leaves to the state perfect freedom to grant such privileges to its citizens as it may see fit, but secures to the citizens of all the other states, by virtue of the constitutional enactment itself, the same rights, privileges, and

immunities. So that, in every state law conferring immunities and privileges upon citizens, the constitutional clause under consideration, ex proprio vigore, becomes an express part of such statute. Thus it is expressed by Mr. Justice Harlan in *Blake v. McClung*, supra: 'The object of the constitutional guaranty was to confer on the ***citizens of the several States*** a general citizenship, and to communicate all the privileges and immunities which the citizens of the same state would be entitled to under like circumstances. . . . These principles have not been modified by any subsequent decision of this court.' Here, then, in precise terms, and from the highest court of our land, charged with the duty of construing our governmental law, it is declared that the purpose of the constitutional guaranty is to confer and communicate all privileges which may thus be granted by a state to its own citizens—a rule of construction obviously radically different from that which would strike down an immunity granted by a state to its own citizens because in terms such immunity had not been conferred upon citizens of all the states. It is unnecessary that a statute should so expressly provide. The Constitution itself becomes a part of the law.

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

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"In America there are two citizenships, distinct from each other, and depending upon different characteristics and circumstances, and the essential difference is caused by a difference of jurisdiction. In strict conformity to this distinction, the Constitution prohibits a State from making or enforcing 'any law which shall abridge

the *privileges or immunities of* ***citizens of the United States***.' (1) The limitation is not as to laws affecting the *privileges and immunities of* ***citizens of the several States***, equality of citizens of States is secured by another provision. (2)

The *privileges and immunities of the* ***citizen of one State*** removing to another State are the same, no more, no less, than the *privileges and immunities of the* ***citizens of the State*** into which he or she removed. (3) The privileges and immunities of citizens of the several States rest for security and protection with the States themselves,--where they rested before the Constitution was made. These privileges and immunities are not placed under the care of the United States except so far as the Constitution declares that, 'The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.' These privileges and immunities of citizens of the several States are fundamental., (4) and are commonly set forth in Bills of Rights found in the State constitutions."

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(1) Amendment XIV.

(2) Article iv, sec 2, c. 1

(3) See p. 150.

(4) *Corfield v. Coryell*, 4 Washington, C. C. 371, 380; *Paul v. Virginia*, 8 Wallace, 180 and see pp. 191-211 of the present volume.

(Source: "The Essentials of American Constitutional Law;" Francis Newton Thorpe, Ph.D. LL.D. of the Pennsylvania Bar; New York: G.P. Putnam's Sons. The Knickerbocker Press; 1917, Page 212 thru 214.)

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4. "**Th(is) clause established a general citizenship among the citizens of the several States.**--In *Cole v. Cunningham*, (fn 59) the court said:

'The intention of section 2, Article IV (of the Constitution), was to confer on the ***citizens of the several States*** a general citizenship, and to communicate all the privileges and immunities which the citizen of the same State would be entitled to under like circumstances.'

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59. 133 U.S. 107, 113-114."

(Source: "The Constitution of the United States, Its History and Construction, Volume II;" David Kemper Watson, LL.B., LL.D., of the Columbus, Ohio, Bar; Chicago: Callaghan & Company; 1910; Chapter XLV, Page 1218.)

http://books.google.com/books?id=7GlCAAAAIAAJ&pg=PA1218#v=onepage&q&f=false

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

Appellants' contentions are that the enforcement of the order prescribing instruction in military science and tactics abridges some privilege or immunity covered by the first clause and deprives of liberty safeguarded by the second. The 'privileges and immunities' protected are only those that belong to ***citizens of the United States***, as distinguished from ***citizens of the States*** **[see Note]** -- those that arise from the Constitution and laws of the United States, as contrasted with those that spring from other sources." Hamilton v. Regents of University of California: 293 U.S. 245, at 261 (1934).

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

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

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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:

(*Note*: Semicolon after the number 49 may not show up in your browser, you will have to type the semicolon in after the number 49 and refresh your browser to see the concurrent resolution.)

Note: The term ***citizen of the states*** is equivalent to the term ***citizen of the several states***.

"Fortunately we are not without judicial construction of this clause of the Constitution (that is, Article IV, Section 2, Clause 1). The first and the leading case on the subject is that of *Corfield v. Coryell*, decided by Mr. Justice Washington in the circuit court for the district of Pennsylvania in 1823. 4 Wash C. C. 371.

> 'The inquiry,' he says, 'is, what are the privileges and immunities of ***citizen of the several states***? . . .'

This definition of the privileges and immunities of ***citizen of the states*** is adopted in the main by this court in the recent case of *Ward v. Maryland*. . . .

Having shown that the privileges and immunities relied on in the argument are those which belong to citizens of the states as such, and that they are left to the state governments for security and protection, and not by this article placed under the special care of the Federal government, we may hold ourselves excused from

defining the privileges and immunities of citizens of the United States which no state can abridge, until some case involving those privileges may make it necessary to do so." Slaughterhouse Cases: 83 U.S. 36, 75-76, 78-79 (1873).

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

2. Privileges and immunities of a citizen of the several States are not the same as the privileges and immunities of a citizen of the United States. Privileges and immunities of a citizen of the United States arise "out of the nature and essential character of the Federal government, and granted or secured by the Constitution" (*Duncan v. State of Missouri*: 152 U.S. 377, at 382 [1894]) or, in other words, "owe their existence to the Federal government, its National character, its Constitution, or its laws." (*Slaughterhouse Cases*: 83 (16 Wall.) U.S. 38, at 79 [1873]).

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Privileges and immunities of a citizen of the several States are those described in *Corfield v. Coryell* decided by Mr. Justice Washington in the Circuit Court for the District of Pennsylvania in 1823:

"In the *Slaughter House Cases*, 16 Wall. 36, 76, in defining the privileges and immunities of citizens of the several States, this is quoted from the opinion of Mr. Justice Washington in *Corfield v. Coryell*, 4 Wash. Cir. Ct. 371, 380." Hodges v. United States: 203 U.S. 1, at 15 (1906).

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

The location for privileges and immunities of a citizen of the United States is Section 1, Clause 2 of the Fourteenth Amendment:

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

The designation for privileges and immunities of a citizen of the several States is Article IV, Section 2, Clause 1 of the Constitution of the United States of America:

"Fortunately we are not without judicial construction of this clause of the Constitution (Article IV, Section 2, Clause 1). The first and leading case of the

subject is that of *Corfield v. Coryell*, decided by Mr. Justice Washington in the Circuit Court for the District of Pennsylvania in 1823.

> 'The inquiry,' he says 'is, what are the ***privileges and immunities of citizens of the several States***? . . .

This definition of the privileges and immunities of citizens of the States is adopted in the main by this court in the recent case of *Ward v. The State of Maryland*." Slaughterhouse Cases: 83 (16 Wall.) 36, at 75 thru 76 (1873).

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

" ' . . . The ***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. Missouri* (1904) 152 U.S. 377, 14 Sup. Ct. 570, 38 L. Ed. 485; *Slaughter House Cases*, 16 Wall. 36, 21 L. Ed. 394.

The provisions of section 2, art. 4, of the federal Constitution, that citizens of each state shall be entitled to ***privileges and immunities of citizens of the several states***, are held to be synonymous with rights of the citizens. *Corfield v. Coryell*, supra. This section is akin to the provision of section 1 of the fourteenth amendment, as respects privileges and immunities, but the former is held not to make the privileges and immunities (the rights) enjoyed by citizens of the several states the measure of the privileges and immunities (the rights) to be enjoyed as of right, by a citizen of another state, under its Constitution and laws. *McKane v. Durston*, 153 U.S. 684, 14 Sup. Ct. 913, 38 L. Ed. 867. This rule necessarily classifies citizens in their rights to the extent that a citizen of one state when in another state must be governed by the same rules which apply to the citizens of that state as to matters which are of the domestic concern of the state. *Cole v. Cunningham*, 133 U.S. 107, 10 Sup. Ct. 269, 33 L. Ed. 538; *People v. Gallagher*, 93 N.Y. 438, 45 Am. Rep. 232; *Butchers' Union v. Crescent City, Mo.*, 111 U.S. 746, 4 Sup Ct. 652, 28 L. Ed. 585; *Ex parte Kinney*, 14 Fed. Cas. 602; *Douglas v. Stephens*, 1 Del. Ch. 465." Strange v. Board of Commission: 91 N.E. 242, at 246 (1910).

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3. It is to be noted that privileges and immunities of a citizen of the several States are not the same as privileges and immunities of a citizen of a State. Privileges and immunities of a citizen of a State are in the constitution and laws of a particular State:

". . . Whatever may be the scope of section 2 of article IV -- and we need not, in

this case enter upon a consideration of the general question -- the Constitution of the United States does not make the privileges and immunities enjoyed by the citizens of one State under the constitution and laws of that State, the measure of the privileges and immunities to be enjoyed, as of right, by a citizen of another State under its constitution and laws." McKane v. Durston: 153 U.S. 684, at 687 (1894).

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Cite as: "Yes there is a citizen of the several States" Dan Goodman, at the Minuteman Page (http://mhkeehn.tripod.com)

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