Questions and Answers on Citizenship in the United States, In Addition

about the author:

Dan Goodman, an authority on citizenship in the United States, answers questions on citizenship in the United States.

After many years of research, Dan has discovered that in the United States, in addition to a citizen of the United States, there is a citizen of a State, who is not a citizen of the United States:

"We come to the contention that the citizenship of Edwards was not averred in the complaint or shown by the record, and hence jurisdiction did not appear.

In answering the question, whether the Circuit Court had jurisdiction of the controversy, we must put ourselves in the place of the Circuit Court of Appeals, and decide the question with reference to the transcript of record in that court.

Had the transcript shown nothing more as to the status of Edwards than the averment of the complaint that he was a 'resident of the State of Delaware,' as such an averment would not necessarily have imported that Edwards was a citizen of Delaware, a negative answer would have been impelled by prior decisions. *Mexican Central Ry. Co. v. Duthie,* 189 U.S. 76; *Horne v. George H. Hammond Co.*, 155 U.S. 393; *Denny v. Pironi*, 141 U.S. 121; *Robertson v. Cease*, 97 U.S. 646. The whole record, however, may be looked to, for the purpose of curing a defective averment of citizenship, where jurisdiction in a Federal court is asserted to depend upon diversity of citizenship, and if the requisite citizenship, is anywhere expressly averred in the record, or facts are therein stated which in legal intendment constitute such allegation, that is sufficient. *Horne v. George H. Hammond Co*., supra and cases cited.

As this is an action at law, we are bound to assume that the testimony of the plaintiff contained in the certificate of the Circuit Court of Appeals, and recited to have been given on the trial, was preserved in a bill of exceptions, which formed part of the transcript of record filed in the Circuit Court of Appeals. Being a part of the record, and proper to be resorted to in settling a question of the character of that now under consideration, *Robertson v. Cease*, 97 U.S. 648, we come to ascertain what is established by the uncontradicted evidence referred to.

In the first place, it shows that Edwards, prior to his employment on the New York Sun and the New Haven Palladium, was legally domiciled in the State of Delaware. Next, it demonstrates that he had no intention to abandon such domicil, for he testified under oath as follows: 'One of the reasons I left the New Haven Palladium was, it was too far away from home. I lived in Delaware, and I had to go back and forth. My family are over in Delaware.' Now, it is elementary that, to effect a change of one's legal domicil, two things are indispensable: First, residence in a new domicil, and, second, the intention to remain there. The change cannot be made, except facto et animo. Both are alike necessary. Either without the other is insufficient. Mere absence from a fixed home, however long continued, cannot work the change. *Mitchell v. United States*, 21 Wall. 350.

As Delaware must, then, be held to have been the legal domicil of Edwards at the time he commenced this action, ***had it appeared that he was a citizen of the United States, it would have resulted, by operation of the Fourteenth Amendment, that Edwards was also a citizen of the State of Delaware***. *Anderson v. Watt*, 138 U.S. 694. Be this as it may, however, Delaware being the legal domicil of Edwards, it was impossible for him to have been a citizen of another State, District, or Territory, and he must then have been either ***a citizen of Delaware*** or a citizen or subject of a foreign State. In either of these contingencies, the Circuit Court would have had jurisdiction over the controversy. But, in the light of the testimony, we are satisfied that the averment in the complaint, that Edwards was a resident 'of' the State of Delaware, was intended to mean, and, reasonably construed, must be interpreted as averring, that ***the plaintiff was a citizen of the State of Delaware***. *Jones v. Andrews*, 10 Wall. 327, 331; *Express Company v. Kountze*, 8 Wall. 342." Sun Printing & Publishing Association v. Edwards: 194 U.S. 377, at 381 thru 383 (1904).

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See his work, "Yes, there is a citizen of a State."

To this, he has found, in addition to a citizen of the United States, a citizen of the several States, who is not a citizen of the United States:

"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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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).

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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).

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"Section 1770b has been several times considered by this court, and upheld to the full extent of its terms. It is enacted under the undoubted power of every state to impose conditions in absolute discretion upon granting the privilege of doing business in this state to any foreign corporation. *Paul v. Virginia*, 8 Wall. (U. S.) 168, 19 L. Ed. 357; *Chicago T. & T. Co. v. Bashford*, 120 Wis. 281, 97 N. W. 940. That power is not restrained by section 2, art. 4, of the federal Constitution, providing that the citizens of each state shall be entitled to all the ***privileges and immunities of citizens of the several states***, nor by section 1, Amend. 14, to that Constitution, providing that no state shall make or enforce any law which shall abridge the ***privileges or immunities of citizens of the United States***, because foreign corporations are not **CITIZENS**. *Paul v. Virginia*, supra; *Chicago T. & T. Co. v. Bashford*, supra." Loverin & Browne Company v. Travis: 115 N.W. 829, 831 (1908).

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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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View his work, "Yes there is a citizen of the several States."

And, Dan has shown that a citizen of a State, who is not a citizen of the United States, is also a citizen of the several States:

"There can be no doubt that Balk, as a citizen of the State of North Carolina, had the right to sue Harris in Maryland to recover the debt which Harris owed him. ***Being a citizen of North Carolina, he was entitled to all 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).

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"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).

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

-- and is to be recognized as such under international law.

Check his work, "Getting a Passport as a citizen of a State under Article IV, Section 2, Clause 1 of the Constitution of the United States of America."

In answering questions on citizenship in the country of the United States, Dan provides legal authority.

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Q. What are the privileges and immunities of a citizen of the several States under Article IV, Section 2, Clause 1 of the Constitution?

A. The privileges and immunities of a citizen of the several States under Article IV, Section 2, Clause 1 of the Constitution are fundamental privileges and immunities described by Justice Washington in *Corfield v. Coryell*:

"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).

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The location for the 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***? We feel no hesitation in confining these expressions to those privileges and immunities which are fundamental. . . . "

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).

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Q. Why is there a citizen of the several States? How did such a citizen come to be a part to the Constitution?

A. Before the Fourteenth Amendment, a citizen of the United States was considered to be a citizen of the several States united:

"The act of Congress referred to in the first section of the *act of 11th April, 1799* is repealed and supplied by an act passed *14th April, 1802*, which is incorporated in this note for the purpose of connecting the whole law on the subject.

'An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject.

Be in enacted, &c. That any alien being a free white person, may be admitted to become ***a citizen of the United States, or any of them*** **[Footnote 1]**, on the following conditions, and not otherwise:

First, That he shall have declared, on oath or affirmation, before the Supreme, Superior, District or Circuit Court of some one of the states or of the territorial districts of the United States, or a Circuit or District Court of the United States, three years at least before his admission, that it was, bona fide, his intention to become a citizen of the United States, and to renounce for ever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whereof such alien may, at the time, be a citizen or subject.

Secondly, That he shall, at the time of his application to be admitted, declare on oath or affirmation, before some one of the courts aforesaid, that he will support the constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly, by name, the prince, potentate, state, or sovereignty whereof he was before a citizen or subject, which proceedings shall be recorded by the clerk of the court.' " Laws of the Commonwealth of Pennsylvania, From the Fourteenth Day of October, One Thousand Seven Hundred. Republished, Under the Authority of the Legislature with Notes and References, Volume 4, (1810); Philadelphia: John Bioren, page 364.

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However, in the *Slaughterhouse Cases*, the Supreme Court split the two equivalent terms. Thereafter, there was a citizen of the United States and a citizen of the several States (united):

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

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, 74 (1873).

Since the Fourteenth Amendment and the *Slaughterhouse Cases*, there is a citizen of the United States, who is not a citizen of the several States (united) and a citizen of the several States (united) who is not a citizen of the United States. **[Footnote 2]**

The phrase "citizens of the several States" was used before the Fourteenth Amendment. It had a different meaning then, that being the citizens of each particular State, taken together. For example, see Justice Curtis dissenting opinion in the case of *Dred Scott*. One was a citizen "of " the several states, before the Fourteenth Amendment, in the sense that he or she was eligible to be a citizen in all the States of the Union, under Article IV, Section 2, Clause 1 of the Constitution. So a citizen of the several States did not exist before the Fourteenth Amendment:

"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".

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Now, however, it means citizens of all the several States, generally, or citizens of the several States united. For clarity, I use the term "a citizen of the several States" rather than "citizens of the several States" to denote one who is a citizen of all the several States, generally, or a citizen of the several States united. This is done indirectly in *Harris v. Balk* (198 U.S. 215, 1905):

"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).

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The reason this was done by the Supreme Court, in the *Slaughterhouse Cases*, was to provide a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, with a citizenship (nationality) which would be recognized under international law (law of nations):

"Referring to §1307 of Mr. Justice Story's Commentaries on the Constitution, and the cases cited, to which he added *Benton v. Burgot*, 10 S. & R. 240, the learned judge inquired: 'What, then, is the right of a state to exercise authority over the persons of those who belong to another jurisdiction, and who have perhaps not been out of the boundaries of it?' (p. 450) and quoted from Vattel, Burge, and from Mr. Justice Story (Conflict of Laws, c. 14, §539), that ' "no sovereignty can extend its process beyond its own territorial limits to subject other persons or property to its judicial decisions. Every exertion of authority beyond these limits is a mere nullity, and incapable of binding such persons or property in other tribunals," ' and thus continued: ' "Such is the familiar, reasonable, and just principle of the law of nations; and it is scarce supposable that the framers of the Constitution designed to abrogate it between States which were to remain as independent of each other, ***for all but national purposes***, as they were before the revolution. . . . . (page 296)

Publicists concur that domicile generally determines the particular territorial jurisprudence to which every individual is subjected. ***As correctly said by Mr. Wharton, the nationality of our citizens is that of the United States*** **[Fn 3],** and by the laws of **the United States [Fn 3]** they are bound in all matters in which **the United States ARE [Footnote 3]** sovereign; but in other matters, their domicile is in the particular State, and that determines the applicatory territorial jurisprudence. A foreign judgment is impeachable for want of personal service within the jurisdiction of the defendant, this being internationally essential to jurisdiction in all cases in which the defendant is not a subject of the State entering judgment; and it is competent for a defendant in an action on a judgment of a sister State, as in an action of a foreign judgment, to set up as a defense, want of jurisdiction, in that he was not an inhabitant of the State rendering the judgment and had not been served with process and did not enter his appearance. Whart. Conflict Laws, §§ 32, 654, 660; Story Conflict Laws, §§ 539, 540, 586.

John Benge was ***a citizen of Maryland*** when he executed this obligation. The subject-matter of the suit against him in Pennsylvania was merely the determination of his personal liability." Grover & Baker Sewing Machine Company v. Radcliffe: 137 U.S. 287, at 296, 297 thru 298 (1890).

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Therefore, the nationality of a citizen of a State, under Article IV, Section 2, Clause

1 of the Constitution of the United States of America is that of being a citizen of the several States. This is shown in *Blake v. McClung* (172 U.S. 239, 1898):

". . . 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).

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Footnotes:

1. The term "the United States," as used therein, refers to the several States united:

"At the time of the formation of the constitution, the States were members of the confederacy united under the style of 'the United States of America,' and upon the express condition that 'each State retains its sovereignty, freedom, and independence.' And the consideration that, under the confederation, 'We, the people of the United States of America,' indubitably signified the people of the several States of the Union, as free, independent and sovereign States, coupled with the fact that the constitution was a continuation of the same Union ("a more perfect Union"), and a mere revision or remodeling of the confederation, is absolutely conclusive that, ***by the term, 'the United States' is meant the several States united*** as independent and sovereign communities***; and by the words, 'We, the people of the United States,' is meant the people of the several States*** as distinct and sovereign communities, and not the people of the whole United States collectively as a nation." Stunt v. Steamboat Ohio: 4 Am. Law. Reg. 49, at 95 (1855), Dis. Ct., Hamilton County, Ohio; and (same wording) Piqua Bank v. Knoup, Treasurer: 6 Ohio 261, at 303 thru 304 (1856).

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This is also shown in the Constitution of the United States of America at Article II, Section 1, Clause 7, whereat it states:

"The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from ***the United States, or any of them***."

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:

" ' . . . 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. The term "the United States," as used therein, refers to the several States united:

"At the time of the formation of the constitution, the States were members of the confederacy united under the style of 'the United States of America,' and upon the express condition that 'each State retains its sovereignty, freedom, and independence.' And the consideration that, under the confederation, 'We, the people of the United States of America,' indubitably signified the people of the several States of the Union, as free, independent and sovereign States, coupled with

the fact that the constitution was a continuation of the same Union ("a more perfect Union"), and a mere revision or remodeling of the confederation, is absolutely conclusive that, ***by the term, 'the United States' is meant the several States united*** as independent and sovereign communities***; and by the words, 'We, the people of the United States,' is meant the people of the several States*** as distinct and sovereign communities, and not the people of the whole United States collectively as a nation." Stunt v. Steamboat Ohio: 4 Am. Law. Reg. 49, at 95 (1855), Dis. Ct., Hamilton County, Ohio; and (same wording) Piqua Bank v. Knoup, Treasurer: 6 Ohio 261, at 303 thru 304 (1856).

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http://books.google.com/books?id=UfADAAAAYAAJ&pg=PA303#v=onepage&q&f=false

This is also shown in the Constitution of the United States of America at Article III, Section 3, Clause 1, whereat it states:

"Treason against **the United States,** shall consist only in levying War against **THEM**."

http://www.archives.gov/exhibits/charters/constitution_transcript.html

Q. So before the Fourteenth Amendment, a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution was also a citizen of the United States. This was so for the purpose of being recognized under international law (law of nations)?

A. Yes, a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, before the Fourteenth Amendment, was also a citizen of the United States, for purposes of international law:

"The intercourse of this country with foreign nations and its policy in regard to them, are placed by the Constitution of the United States in the hands of the government, and its decisions upon these subjects are obligatory upon every citizen of the Union. He is bound to be at war with the nation against which the war-making power has declared war, and equally bound to commit no act of hostility against a nation with which the government is in amity and friendship. This principle is universally acknowledged by the laws of nations. It lies at the foundation of all government, as there could be no social order or peaceful relations between the citizens of different countries without it. It is, however, more emphatically true in relation to citizens of the United States. For as the sovereignty resides in the people, every citizen is a portion of it, and is himself personally bound by the laws which the representatives of the sovereignty may pass, or the treaties into which they may enter, within the scope of their delegated authority. And when

that authority has plighted its faith to another nation that there shall be peace and friendship between the citizens of the two countries, every citizen of the United States is equally and personally pledged. The compact is made by the department of the government upon which he himself has agreed to confer the power. It is his own personal compact as a portion of the sovereignty in whose behalf it is made. And he can do no act, nor enter into any agreement to promote or encourage revolt or hostilities against the territories of a country with which our government is pledged by treaty to be at peace, without a breach of his duty as a citizen and the breach of the faith pledged to the foreign nation." Kennett v. Chambers: 55 U.S. 38, 49 thru 50 (1852).

http://books.google.com/books?id=LgAGAAAAYAAJ&pg=PA49#v=onepage&q&f=false

In addition, a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, was a citizen of a State **AS WELL AS** a citizen of the United States:

"The defendant in error is alleged in the proceedings to be a citizen of the United States, naturalized in Louisiana, and residing there. This is equivalent to an averment that he is a citizen of that state." Gassies v. Ballon: 6 Pet. 761,762 (1832)

http://books.google.com/books?id=ES43AAAAIAAJ&pg=RA1-PA762#v=onepage&q&f=false

"This cause has been heard on demurrer to the bill, which alleges, in substance, that the defendant was born prior to April 6, 1841, at Fishmoyne, in the parish of Down and Inch, and county of Tipperary, Ireland, and was an alien; that he remained there till 18(6)2, when he came to this country, and arrived at New York about May 13th of that year, when over 18 and about 20 years old (Note: 1841 + 20 = 1861, thus 1862, not 1882); that on ***October 22, 1867***, without having made any declaration of intention to become a citizen of the United States, he presented a petition for naturalization to the superior court of the city of New York, . . . that thereupon the required oaths were taken, and a certificate in due form was issued. . . .

. . . But, whatever the fact was, the administration of the oaths and issuing of the certificate showed the satisfaction of the court as to the requirements, constituting a judgment of admission to citizenship, with the force of such a judgment upon the status of the applicant. . . .

The defendant became a citizen of the state of New York, **AS WELL AS** of the United States." United States v. Gleason: 78 F. Rep. 396 (1897).

http://books.google.com/books?id=1ZoKAAAAYAAJ&pg=RA1-PA396#v=onepage&q=&f=false

(*Note*: the Fourteenth Amendment was proclaimed in effect on ***July 28, 1868***.)

As shown earlier a citizen of the United States was considered to be a citizen of the several States united. So a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, before the Fourteenth Amendment, was also a citizen of a State **AS WELL AS** a citizen of the several States united.

Which is exactly what a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, is, after the Fourteenth Amendment; that is, a citizen of a State **AS WELL AS** a citizen of the several States (united):

". . . 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

"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

Q. So a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, since the adoption of the Fourteenth Amendment, should be able to get a passport, in the country of the United States, since such citizen is also a citizen of the several States united under international law (law of nations)?

A. This is correct. 22 U.S.C. 212 (2010) states:

"No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States."

http://www.law.cornell.edu/uscode/422/usc_sec_22_00000212----000-.html

18 U.S.C. 2381 (2010) reads:

"Whoever, owing allegiance to **the United States**, levies war against **THEM** or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than $10,000; and shall be incapable of holding any office under the United States."

http://www.law.cornell.edu/uscode/718/usc_sec_18_00002381----000-.html

As shown earlier, the term "the United States," refers to the several States united.

A citizen of a State, under Article IV, Section 2, Clause 1, owes allegiance to two sovereigns, the particular State, and the United States (that is, the several States united):

". . . Every citizen of a State owes a double allegiance; he enjoys the protection and participates in the government of both the State and the United States." Houston v. Moore: 18 U.S. (5 Wheat.) 1, at 33; concurring opinion of Justice Johnson (1820).

http://books.google.com/books?id=1FUGAAAAYAAJ&pg=PA33#v=onepage&q&f=false

"The general government, and the States, although both exist within the same territorial limits, are separate and distinct sovereignties, acting separately and independently of each other, within their respective spheres. The former in its appropriate sphere is supreme; but the States within the limits of their powers not granted, or, in the language of the tenth amendment, 'reserved,' are as independent of the general government as that government within its sphere is independent of the States." Collector v. Day: 78 U.S. (Wall. 11) 113, at 124 (1870).

http://books.google.com/books?id=zMEGAAAAYAAJ&pg=PA124#v=onepage&q&f=false

To this there is the following:

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

http://books.google.com/books?id=c04GAAAAYAAJ&pg=PA690#v=onepage&q&f=false

So the term “citizens” used in 22 U.S.C. 212, refers to both a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, and a citizen of the United States, under Section 1 of the Fourteenth Amendment.

Thus, a citizen of a State, under Article IV, Section 2, Clause 1 of the Constitution, since the adoption of the Fourteenth Amendment, can get a passport under 22 U.S.C. 212.

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