

The Fourteenth Amendment Created Two Citizens: A Concise Explanation

©2009 Dan Goodman

The Fourteenth Amendment created two citizens under the Constitution of the United States (of America).

Before the Fourteenth Amendment, citizenship of a State and citizenship of the United States were considered one in the same. [\[Footnote 1\]](#) However, in the *Slaughterhouse Cases*, the Supreme Court decided that because of the Fourteenth Amendment, citizenship of a State was to be separate and distinct from citizenship of the United States.

This was done so *Dred Scott* would not apply. In that case, citizenship of a State and citizenship of the United States were considered to be one in the same.

The Fourteenth Amendment created citizenship of the United States. As stated above, this citizenship was separate and distinct from citizenship of a State. If, one, being a citizen of the United States, wanted to become a citizen of a State, then according to the Fourteenth Amendment, all one had to do was reside in a State. In this case, one would be a citizen of the United States AND a citizen of a State. [\[Footnote 2\]](#) He or she, would then have privileges and immunities of a citizen of the United States plus privileges and immunities of a citizen of a State.

Before the Fourteenth Amendment, citizenship of a State and citizenship of the United States were considered one in the same. One who was a citizen of a State (as well as a citizen of the United States [\[Footnote 3\]](#)), was entitled; under Article IV, Section 2, Clause 1 of the Constitution of the United States (of America), to “all privileges and immunities of citizens in the several States.”

The Fourteenth Amendment; however, according to the Supreme Court in the *Slaughterhouse Cases*, changed citizenship under the Constitution. Citizenship of a State was now to be considered as separate and distinct from citizenship of the United States. A citizen of a State was to be considered as separate and distinct from a citizen of the United States. [\[Footnote 4\]](#)

Because of this a citizen of a State, and not a citizen of the United States, was entitled; under Article IV, Section 2, Clause 1 of the Constitution of the United States (of America), to “all privileges and immunities of citizens in the several States.” [\[Footnote 5\]](#)

Before the Fourteenth Amendment, citizenship of a State and citizenship of the United States were considered one in the same. A citizen of a State was recognized at Article IV, Section 2, Clause 1 of the Constitution. However, after the Fourteenth Amendment, there were now two state citizens, one under Article IV, Section 2, Clause 1 of the Constitution, and one under Section 1 of the Fourteenth Amendment. [\[Footnote 6\]](#)

In the *Slaughterhouse Cases*, the Supreme Court decided that the Fourteenth Amendment created a second citizenship, citizenship of the several States.” [Footnote 7] This was later reaffirmed in *Cole v. Cunningham*:

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

Now there are two state citizens, a citizen of the United States and a citizen of the several States. One is under the Fourteenth Amendment the other under Article IV, Section 2, Clause 1 of the Constitution.

So, the Fourteenth Amendment created two citizens under the Constitution of the United States (of America):

"Consequently, one who is created a citizen of the United States, is certainly not made a citizen of any particular State. It follows, that as it is only the citizens of the State who are entitled to all privileges and immunities of citizens of the several States, . . . , then a distinction both in name and privileges is made to exist between citizens of the United States, *ex vi termini*, and citizens of the respective (several) States." *Ex parte Frank Knowles*: 5 Cal. 300, at page 304 (1855). [*Before the Fourteenth Amendment*]

Footnotes:

[1] This was easily seen in the naturalization laws. When one was naturalized, before the Fourteenth Amendment, one was considered a citizen of the United States. This made sense as one who was naturalized was not born in a State. However, one could become a citizen of a State, by being domicile in it:

“In this case the court is of opinion that the jurisdiction can be sustained. 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. A citizen of the United States, residing in any state of the union, is a citizen of the state.” *Gassies v. Baloon*: 31 U.S. (6 Peters) 761, at 762 (1832).

[2] In *Bradwell v. the State of Illinois* (83 U.S. 130, at 138), it states:

“The Fourteenth Amendment declares that citizens of the United States are citizens of the state within they reside; therefore the plaintiff was at the time of making her application, a citizen of the United States and a citizen of the State of Illinois.”

[3] “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). [*Before the Fourteenth Amendment*]

(*Note*: So one born in an individual State of the Union; before the 14th Amendment, was a citizen of that State, and with regards to other countries, under the law of nations, was a citizen of the United States.)

[4] This can be seen in the Fourteenth Amendment itself in the first clause of the first section which states:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

[5] “As applied to a citizen of another State, or to a citizen of the United States residing in another State, a state law forbidding sale of convict made goods does not violate the privileges and immunities clauses of Art. IV, Sec. 2 and the Fourteenth Amendment of the Federal Constitution if it applies also and equally to the citizens of the State that enacted it.” (*Syllabus*) Whitfield v. State of Ohio: 297 U.S. 431 [1936]

“The court below proceeded upon the assumption that petitioner was a citizen of the United States; and his status in that regard is not questioned. The effect of the privileges and immunities clause of the Fourteenth Amendment, as applied to the facts of the present case, is to deny the power of Ohio to impose restraints upon citizens of the United States resident in Alabama in respect of the disposition of goods within Ohio, if like restraints are not imposed upon citizens resident in Ohio.

The effect of the similar clause found in the Fourth Article of the Constitution (section 2), as applied to these facts, would be the same, since that clause is directed against discrimination by a state in favor of its own citizens and against the citizens of other states. *Slaughterhouse Cases* (Live-Stock Dealers' & Butchers' Ass'n v. Crescent City Live-Stock Landing & Slaughter-House Co.), Fed.Cas. No. 8,408, 1 Woods 21, 28; *Bradwell v. State of Illinois*, 16 Wall. 130, 138.” (Opinion) *Whitfield v. State of Ohio*: 297 U.S. 431, 437 [1936].

[6] Under the Fourteenth Amendment, one who is a citizen of the United States, residing in a State, became a citizen of a State. One, therefore, was a citizen of the United States and a citizen of a State.

[7] In the *Slaughterhouse Cases*, at page 75, there is the following:

“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.’ ”

Prior to this page there is the following at page 74:

“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.”

More can be read at this link:

<http://www.jdsupra.com/post/documentViewer.aspx?fid=fbd578ce-7cda-4fd7-a865-41ceb0839556>