

“These provisions are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality. . . .”<sup>1366</sup> The only qualification is that a municipal corporation cannot invoke the clause against its state.<sup>1367</sup>

**“Within Its Jurisdiction”.**—Persons “within its jurisdiction” are entitled to equal protection from a state. Largely because Article IV, § 2, has from the beginning guaranteed the privileges and immunities of citizens in the several states, the Court has rarely construed the phrase in relation to natural persons.<sup>1368</sup> As to business entities, it was first held that a foreign corporation that was not doing business in a state in a manner that subjected it to the process of a state’s courts was not “within the jurisdiction” of the state and could not complain that resident creditors were given preferences in the distribution of assets of an insolvent corporation.<sup>1369</sup> This holding was subsequently qualified, however, with the Court holding that a foreign corporation seeking to recover possession of property wrongfully taken in one state, but suing in another state in which it was not licensed to do business, was “within the jurisdiction” of the latter state, so that unequal burdens could not be imposed on the maintenance of the suit.<sup>1370</sup> The test of amenability to service of process within the state was ignored in a later case dealing with discriminatory assessment of property belonging to a nonresident individual.<sup>1371</sup> On the other hand, if a state has admitted a foreign corporation to do business within its borders, that corporation is entitled to equal protection of the laws, but not necessarily to identical treatment with domestic corporations.<sup>1372</sup>

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Connecticut Gen. Life Ins. Co. v. Johnson, 303 U.S. 77, 85 (1938), and Justice Douglas, in *Wheeling Steel Corp. v. Glander*, 337 U.S. 562, 576 (1949), have disagreed that corporations are persons for equal protection purposes.

<sup>1366</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886). For modern examples, see *Levy v. Louisiana*, 391 U.S. 68, 70 (1968); *Graham v. Richardson*, 403 U.S. 365, 371 (1971).

<sup>1367</sup> *City of Newark v. New Jersey*, 262 U.S. 192 (1923); *Williams v. Mayor of Baltimore*, 289 U.S. 36 (1933).

<sup>1368</sup> *But see Plyler v. Doe*, 457 U.S. 202, 210–16 (1982) (explicating meaning of the phrase in the context of holding that aliens illegally present in a state are “within its jurisdiction” and may thus raise equal protection claims).

<sup>1369</sup> *Blake v. McClung*, 172 U.S. 239, 261 (1898); *Sully v. American Nat’l Bank*, 178 U.S. 289 (1900).

<sup>1370</sup> *Kentucky Finance Corp. v. Paramount Auto Exchange Corp.*, 262 U.S. 544 (1923).

<sup>1371</sup> *Hillsborough v. Cromwell*, 326 U.S. 620 (1946).

<sup>1372</sup> *Wheeling Steel Corp. v. Glander*, 337 U.S. 562 (1949); *Hanover Fire Ins. Co. v. Harding*, 272 U.S. 494 (1926). See also *Philadelphia Fire Ass’n v. New York*, 119 U.S. 110 (1886).