

Sec. 2—Interstate Comity

Cl. 1—State Citizenship: Privileges and Immunities

States, and subject to the jurisdiction thereof are concerned, the question was put at rest by the Fourteenth Amendment.

Corporations.—At a comparatively early date, the claim was made that a corporation chartered by a state and consisting of its citizens was entitled to the benefits of the comity clause in the transaction of business in other states. It was argued that the Court was bound to look beyond the act of incorporation and see who were the incorporators. If it found these to consist solely of citizens of the incorporating state, it was bound to permit them through the agency of the corporation to exercise in other states such privileges and immunities as the citizens thereof enjoyed. In *Bank of Augusta v. Earle*,¹⁷⁴ this view was rejected. The Court held that the comity clause was never intended “to give to the citizens of each State the privileges of citizens in the several States, and at the same time to exempt them [under a corporate veil] from the liabilities which the exercise of such privileges would bring upon individuals who were citizens of the State. This would be to give the citizens of other States far higher and greater privileges than are enjoyed by the citizens of the State itself.”¹⁷⁵ A similar result was reached in *Paul v. Virginia*.¹⁷⁶ The Court there held that a corporation, in this instance, an insurance company, was “the mere creation of local law” and could “have no legal existence beyond the limits of the sovereignty”¹⁷⁷ which created it; even recognition of its existence by other states rested exclusively in their discretion.¹⁷⁸ By reason of its similarity to the corporate form of organization, a Massachusetts trust has been denied the protection of this clause.¹⁷⁹

All Privileges and Immunities of Citizens in the Several States

The scope of “privileges and immunities” comprehended by the comity clause is bound by the provision’s purpose. The classical judicial exposition of the meaning of the phrase is that of Justice Washington in *Corfield v. Coryell*,¹⁸⁰ which was decided by him on circuit in 1823. The question at issue was the validity of a New Jersey statute that prohibited “any person who is not, at the time, an actual inhabitant and resident in this State” from raking or gather-

¹⁷⁴ 38 U.S. (13 Pet.) 519 (1839).

¹⁷⁵ 38 U.S. at 586.

¹⁷⁶ 75 U.S. (8 Wall.) 168 (1869).

¹⁷⁷ 75 U.S. at 181.

¹⁷⁸ Later cases held that this discretion is qualified by other provisions of the Constitution notably the Commerce Clause and the Fourteenth Amendment. *Crutcher v. Kentucky*, 141 U.S. 47 (1891).

¹⁷⁹ *Hemphill v. Orloff*, 277 U.S. 537 (1928).

¹⁸⁰ 6 Fed. Cas. 546 (No. 3,230) (C.C.E.D. Pa., 1823).