

petual censor upon all legislation of the States, on the civil rights of their own citizens, with authority to nullify such as it did not approve as consistent with those rights, as they existed at the time of the adoption of this amendment. . . . [The effect of] so great a departure from the structure and spirit of our institutions . . . is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character . . . . We are convinced that no such results were intended by the Congress which proposed these amendments, nor by the legislatures of the States which ratified them,” and that the “one pervading purpose” of this and the other War Amendments was “the freedom of the slave race.”

Based on these conclusions, the Court held that none of the rights alleged by the competing New Orleans butchers to have been violated were derived from the butchers’ national citizenship; insofar as the Louisiana law interfered with their pursuit of the business of butchering animals, the privilege was one that “belong to the citizens of the States as such.” Despite the broad language of this clause, the Court held that the privileges and immunities of state citizenship had been “left to the State governments for security and protection” and had not been placed by the clause “under the special care of the Federal government.” The only privileges that the Fourteenth Amendment protected against state encroachment were declared to be those “which owe their existence to the Federal Government, its National character, its Constitution, or its laws.”<sup>18</sup> These privileges, however, had been available to United States citizens and protected from state interference by operation of federal supremacy even prior to the adoption of the Fourteenth Amendment. The *Slaughter-House Cases*, therefore, reduced the Privileges or Immunities Clause to a superfluous reiteration of a prohibition already operative against the states.

Although the Court in the *Slaughter-House Cases* expressed a reluctance to enumerate those privileges and immunities of United States citizens that are protected against state encroachment, it nevertheless felt obliged to suggest some. Among those that it identified were the right of access to the seat of government and to the seaports, subtreasuries, land officers, and courts of justice in the several states, the right to demand protection of the Federal Government on the high seas or abroad, the right of assembly, the privilege of *habeas corpus*, the right to use the navigable waters of the

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<sup>18</sup> 83 U.S. at 78, 79.