is a guaranty to the citizens of each state of the natural and fundamental rights inherent in the citizenship of persons in a free society, the privileges and immunities of free citizens, which no state could deny to citizens of other states, without regard to the manner in which it treated its own citizens. This theory found some expression in a few state cases [157] and best accords with the natural law-natural rights language of Justice Washington in *Corfield v. Coryell*.[158]

If it had been accepted by the Court, this theory might well have endowed the Supreme Court with a reviewing power over restrictive state legislation as broad as that which it later came to exercise under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, but it was firmly rejected by the Court.[159] Third, the clause guarantees to the citizen of any state the rights which he enjoys as such even when he is sojourning in another state; that is, it enables him to carry with him his rights of state citizenship throughout the Union, unembarrassed by state lines. This theory, too, the Court rejected.[160] Fourth, the clause merely forbids any state to discriminate against citizens of other states in favor of its own. It is this narrow interpretation that has become the settled one. "It was undoubtedly the object of the clause in question to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned. It relieves them from the disabilities of alienage in other States; it inhibits discriminating legislation against them by other States; it gives them the right of free ingress into other

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[157] Campbell v. Morris, 3 H. & McH. 288 (Md. 1797); Murray v. McCarty, 2 Munf. 373 (Va. 1811); Livingston v. Van Ingen, 9 Johns. Case. 507 (N.Y. 1812); Douglas v. Stephens, 1 Del. Ch. 465 (1821); Smith v. Moody, 26 Ind. 299 (1866).

[158] 6 Fed. Cas. 546, 550 (No. 3230) (C.C.E.D. Pa. 1823). (Justice Washington on circuit), quoted infra, "All Privileges and Immunities of Citizens in the Several States." "At one time it was thought that this section recognized a group of rights which, according to the jurisprudence of the day, were classed as 'natural rights'; and that the purpose of the section was to create rights of citizens of the United States by guaranteeing the citizens of every State the recognition of this group of rights by every other State. Such was the view of Justice Washington." Hague v. CIO, 307 U.S. 496, 511 (1939) (Justice Roberts for the Court). This view of the clause was asserted by Justices Field and Bradley, *Slaughter House Cases*, 83 U.S. (16 Wall.) 97, 117–18 (1873) (dissenting opinions); Butchers' Union Slaughter-House and Live-Stock Landing Co. v. Crescent City Live-Stock Landing and Slaughter-House Co., 111 U.S. 746, 760 (1884) (Justice Field concurring), *but see infra*, and was possibly understood so by Chief Justice Taney. Scott v. Sandford, 60 U.S. (19 How.) 393, 423 (1857). *See also* id. at 580 (Justice Curtis dissenting). The natural rights concept of privileges and immunities was strongly held by abolitionists and their congressional allies who drafted the similar clause into 1 of the Fourteenth Amendment. Graham, *Our 'Declaratory' Fourteenth Amendment*, reprinted in H. Graham, Everyman's Constitution: Historical Essays on the Fourteenth Amendment, the Conspiracy Theory, and American Constitutionalism 295 (1968).

[159] McKane v. Durston, 153 U.S. 684, 687 (1894); *see also* cases cited infra.

[160] City of Detroit v. Osborne, 135 U.S. 492 (1890).