

## **RIGHTS GUARANTEED**

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### **FOURTEENTH AMENDMENT**

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#### **THE FOURTEENTH AMENDMENT AND STATES' RIGHTS**

Amendment of the Constitution during the post-Civil War Reconstruction period resulted in a fundamental shift in the relationship between the Federal Government and the states. The Civil War had been fought over issues of states' rights, particularly the right to control the institution of slavery.<sup>1</sup> In the wake of the war, the Congress submitted, and the states ratified the Thirteenth Amendment (making slavery illegal), the Fourteenth Amendment (defining and granting broad rights of national citizenship), and the Fifteenth Amendment (forbidding racial discrimination in elections). The Fourteenth Amendment was the most controversial and far-reaching of these three "Reconstruction Amendments."

#### **CITIZENS OF THE UNITED STATES**

The citizenship provisions of the Fourteenth Amendment may be seen as a repudiation of one of the more politically divisive cases of the nineteenth century. Under common law, free persons born within a state or nation were citizens thereof. In the *Dred Scott* case,<sup>2</sup> however, Chief Justice Taney, writing for the Court, ruled that

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<sup>1</sup> "Since the 1950s most professional historians have come to agree with Lincoln's assertion that slavery 'was, somehow, the cause of the war.'" James M. McPherson, *Southern Comfort*, THE NEW YORK REVIEW OF BOOKS (Apr. 12, 2001), quoting Lincoln's second inaugural address.

<sup>2</sup> *Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857). The controversy, political as well as constitutional, that this case stirred and still stirs is exemplified and analyzed in the material collected in S. KUTLER, *THE DRED SCOTT DECISION: LAW OR POLI-*